Subject: RE: Public Records Law Request (WI-REP-22-0106)
Date: Thursday, February 24, 2022 at 1:10:15 PM Eastern Standard Time
From: Redell, Carol
To: AO Records
CC: Rep.Brandtjen, Blazel, Ted
Attachments: image001.png

EXTERNAL SENDER

https://wilegis-my.sharepoint.com/:u:/g/personal/credell_legis_wisconsin_gov/EfAlpieyjXtBockMy1RAEMoBAEZ0xwLyWbNUN84hFu4cFg?email=records%40americanoversight.org&e=OUIXqP

Marwah Adhoob
Pronouns: she/her
Paralegal
American Oversight
records@americanoversight.org

Dear Marwah:

Open records requests are processed through the Assembly Chief Clerk's office for billing purposes only. You submitted an open records request to Representative Brandtjen. The records are being provided in electronic format and, thus, there is no charge for any location or reproduction costs. Accordingly, all records that are responsive to your request are attached to this email.

Carol Redell
Office of the Assembly Chief Clerk
17 West Main Street, Suite 401
Madison, Wisconsin 53703
608.266.1501
carol.redell@legis.wi.gov

From: Rep.Brandtjen <Rep.Brandtjen@legis.wisconsin.gov>
Sent: Thursday, February 24, 2022 11:54 AM
To: AO Records <records@americanoversight.org>
Cc: Blazel, Ted <Ted.Blazel@legis.wisconsin.gov>; Redell, Carol <Carol.Redell@legis.wisconsin.gov>
Subject: RE: Public Records Law Request (WI-REP-22-0106)

American Oversight,

AMERICAN OVERSIGHT

This is in response to your public records request in the attached document.

Responsive records have been delivered to the Office of the Assembly Chief Clerk and they will contact with you with instructions on how to retrieve those records.

We now consider this matter closed.

Thank you,

Janel Brandtjen
Wisconsin State Representative
22nd Assembly District

cc: Ted Blazel, Assembly Chief Clerk
Carol Redell, Assembly Chief Clerk's Office

From: AO Records <records@americanoversight.org>
Sent: Monday, January 31, 2022 5:17 PM
To: Rep.Brandtjen <Rep.Brandtjen@legis.wisconsin.gov>
Subject: Public Records Law Request (WI-REP-22-0106)

Dear Public Records Custodian:

Please find attached a request for records under Wisconsin's public records law.

Sincerely,

--
Marwah Adhoob
Pronouns: she/her
Paralegal
American Oversight
records@americanoversight.org
www.americanoversight.org | @weareoversight

PRR: WI-REP-22-0106

AMERICAN OVERSIGHT

Savidusky, Melodie

Subject:	Vicki McKenna/Kittle
Location:	608-663-7297
Start:	Wed 12/15/2021 3:35 PM
End:	Wed 12/15/2021 4:35 PM
Recurrence:	(none)
Meeting Status:	Meeting organizer
Organizer:	Brandtjen, Janel
Categories:	Janel

AMERICAN OVERSIGHT

Savidusky, Melodie

Subject: WKOW Interview
Location: 12W

Start: Wed 1/5/2022 9:30 AM
End: Wed 1/5/2022 10:00 AM

Recurrence: (none)

Organizer: Brandtjen, Janel

Categories: Janel

That's OK - tomorrow is actually better for me so let's do 9:30am in her office then.

A.J.

A.J. Bayatpour
Capitol Bureau Chief, WKOW 27 News
Desk: (608) 661-2784
Cell: (224) 622-5631

From: Duesterbeck, Melodie <Melodie.Duesterbeck@legis.wisconsin.gov>
Sent: Tuesday, January 4, 2022 12:29 PM
To: Adair Bayatpour <abayatpour@wkow.com>
Subject: RE: WKOW request - new records requests for WEC

She really prefers in-person over zoom. She'll be here Thursday and is available after 1:30 if that works better for you?

From: Adair Bayatpour <abayatpour@wkow.com>
Sent: Tuesday, January 04, 2022 12:27 PM
To: Duesterbeck, Melodie <Melodie.Duesterbeck@legis.wisconsin.gov>
Subject: Re: WKOW request - new records requests for WEC

Would it be possible to do it over Zoom? Otherwise I can come by the office if need be!

A.J. Bayatpour
Capitol Bureau Chief, WKOW 27 News
Desk: (608) 661-2784
Cell: (224) 622-5631

From: Duesterbeck, Melodie <Melodie.Duesterbeck@legis.wisconsin.gov>
Sent: Tuesday, January 4, 2022 12:20 PM

AMERICAN OVERSIGHT

To: Adair Bayatpour <abayatpour@wkow.com>
Subject: RE: WKOW request - new records requests for WEC

9:30 would be great. Our office -12 West?

From: Adair Bayatpour <abayatpour@wkow.com>
Sent: Tuesday, January 04, 2022 12:14 PM
To: Duesterbeck, Melodie <Melodie.Duesterbeck@legis.wisconsin.gov>
Subject: Re: WKOW request - new records requests for WEC

Thanks for getting back to me, Melodie.

Yes - we can do tomorrow morning. Would 9:30 or 10 be good?

All the best,
A.J.

A.J. Bayatpour
Capitol Bureau Chief, WKOW 27 News
Desk: (608) 661-2784
Cell: (224) 622-5631

From: Duesterbeck, Melodie <Melodie.Duesterbeck@legis.wisconsin.gov>
Sent: Tuesday, January 4, 2022 12:06 PM
To: Adair Bayatpour <abayatpour@wkow.com>
Subject: RE: WKOW request - new records requests for WEC

Hi AJ,

Janel is in Milwaukee today. Can we do it first thing tomorrow morning?

Thanks,
Melodie

From: Adair Bayatpour <abayatpour@wkow.com>
Sent: Tuesday, January 04, 2022 11:05 AM
To: Duesterbeck, Melodie <Melodie.Duesterbeck@legis.wisconsin.gov>
Subject: WKOW request - new records requests for WEC

Hi Melodie,

I'm covering the latest round of subpoenas Mike Gableman's team has sent to Madison and Green Bay officials as well as the Assembly elections committee's request for voter data from WEC. Would Rep. Brandtjen be available today to discuss that request and what she hopes the committee will be able to learn from those records?

All the best,

AMERICAN OVERSIGHT

A.J. Bayatpour

A.J. Bayatpour
Capitol Bureau Chief, WKOW 27 News
Desk: (608) 661-2784
Cell: (224) 622-5631

AMERICAN OVERSIGHT

Savidusky, Melodie

Subject: Vicki McKenna
Location: 608-663-7297

Start: Fri 1/28/2022 3:35 PM
End: Fri 1/28/2022 4:05 PM

Recurrence: (none)

Organizer: Brandtjen, Janel

Categories: Janel

Hi Rep. Brandtjen,

My name is Carolyn Ryan. I am helping Dr. Janet Lynn coordinate media for tomorrow's big election integrity forum. A local radio host, Vicki McKenna would like to have you on her radio program for an interview today at 3:35pm. Topics would be the forum tomorrow, and the latest developments with regard to elections in WI.

Can you please give me a call or text to confirm whether or not you are able to do the interview? I have to let Vicki know ASAP.

Thanks so much!

Best,
Carolyn
CELL: 404-493-1335

Carolyn Ryan
Founder, CR Media Company
Info@CRMediaCompany.com
404. 493. 1335

AMERICAN OVERSIGHT

Savidusky, Melodie

Subject: Chippewa Falls
Location: Lilydale Event Center, 6343 County Hwy N, Chippewa Falls, WI 54729

Start: Sat 1/29/2022 12:30 PM
End: Sat 1/29/2022 9:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Brandtjen, Janel

Categories: Janel

Doors open for the public at 12:30. If Rep Brandtjen would like to arrive early for an interview and/or to get settled in the VIP area, she can.

13 minutes to hotel from venue.
Cobblestone Hotel conf. #: 28003408
Check in at 3pm.
Cancel within 24 hours.

Janel Brandtjen,
Your booking for the WI Citizen Candidate Forum on Election Integrity is confirmed!
Saturday, January 29, 2022
Lilydale Event Center
6343 Co Hwy N
Chippewa Falls, WI 54729
Doors open at 12:30 pm.
Event starts at 1:15 pm.
You must show ID and pass through security to enter.
We look forward to seeing you!
If questions, please contact:
Janet@CFElpac.com

Representative Brandtjen

We would be honored to have you join us on the *WI State Leaders panel* for an event in Chippewa Falls, WI, on January 29th. The event is one of a series of state forums or ad hoc hearings sponsored by the Coalition of America First Candidates/Conservatives for Election Integrity PAC.

The January 29th program will start with a brief summary presentation by an election expert in regard to the November 2020 election irregularities in WI, followed by three panels:

1) **WI State Leaders and Legislators Panel-** Up-to-date information from those involved in election integrity efforts in Wisconsin.

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2) **Candidate Panel-** WI 2022 Candidates will introduce themselves and share what they would do to ensure election integrity. The Coalition of Candidates from other key states, who are in attendance to show support for WI, will briefly join on stage.
3) **Solutions & Action Panel-** Key players in Wisconsin and nationally will share election integrity actions currently in process, and discuss how the grassroots and local WI leaders can help.

Internationally acclaimed investigative journalist, **Lara Logan,** has agreed to be the moderator for the event. RSBN will livestream the event. OANN, BlazeTV, and RAV may be present. A few unannounced **high profile guests** have been invited to surprise and motivate our hard-working grassroots.

The program will last from 1:15 to 5:00 pm. There will be a social hour with a light supper/hot hors d'oeuvres from 5:00-6:30 pm, followed by an optional authorized pre-screening of Jim Caviezel's new feature film, *Sound of Freedom*, for those who can stay from 7:00-9:00 pm.

We have enclosed the program flyer for your review. Please feel free to contact us if you have further questions about the event. As an invited panelist, feel free to use the code **WI2022** when registering to cover the ticket fee. **Everyone must be pre-registered**, show ID, and pass through security to enter.

In addition to registering to attend the WI event on the registration website (ACCFEI.org), please confirm by responding to this email if you would also be able to join us on the panel. We appreciate all of your efforts in WI and hope you will.

Best regards,

Dr. Janet C. Lynn
WI Resident/Local Host
WIteam@CFEIpac.com

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WI-REP-22-0106-A-000007

STATE OF WISCONSIN **CIRCUIT COURT** **COUNTY OF DANE**
BRANCH 2

J.B. VAN HOLLEN,
In his official capacity as
Attorney General of the State
Of Wisconsin,

Plaintiff,

REPUBLICAN PARTY
OF WISCONSIN,

Intervenor Plaintiff,

Vs. **Case No. 08CV4085**

GOVERNMENT ACCOUNTABILITY BOARD, THOMAS CANE, GERALD NICHOL, MICHAEL BRENNAN, WILLIAM EICH, VICTOR MANIAN, GORDON MYSE, KEVIN J. KENNEDY and NATHANIEL E. ROBINSON,

Defendants,

THE DEMOCRATIC PARTY OF WISCONSIN, MADISON TEACHERS INC., AMERICAN FEDERATION OF TEACHERS-WISCONSIN, MADISON FIREFIGHTERS LOCAL 311, MILWAUKEE BRANCH OF THE NAACP, and MILWAUKEE TEACHERS' EDUCATION ASSOCIATION,

Intervenor Defendants.

ORDER

AMERICAN OVERSIGHT

For the reasons stated in the attached transcript of oral decision issued October 23, 2008, the defendants' motions to dismiss are granted. The complaints of Plaintiff Attorney General J.B. Van Hollen and Intervenor Plaintiff Republican Party of Wisconsin are hereby DISMISSED.

This is a final order that disposes of the entire matter in litigation between the parties and is intended to be an appealable order within the meaning of § 808.03(1), Wis. Stats.

Dated this 23rd day of October, 2008.

BY THE COURT

Maryann Sumi, Judge
Circuit Court Branch 2

Cc: AAG Steven Means
Atty. Lester Pines
Atty. James Troupis
Atty. Robert Friebert
Atty. Edward Garvey
Atty. Richard Saks
Atty. John Skilton

AMERICAN OVERSIGHT

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY
BRANCH 2

* *

J.B. VAN HOLLEN in his
Official capacity as Attorney
General of Wisconsin, et al.,

Plaintiffs,

-vs- Case No. 08-CV-4085

GOVERNMENT ACCOUNTABILITY
BOARD, et al.,

Defendants.

* *

DATE: October 23, 2008

PROCEEDINGS: Motion Hearing

BEFORE: The Honorable **MARYANN SUMI**

A P P E A R A N C E S

STEVEN MEANS and **CHARLES HOORNSTRA**, Assistant Attorneys General, Wisconsin Department of Justice, 17 West Main Street, PO Box 7857, Madison, WI 53707-7857, appearing on behalf of the plaintiffs;

JAMES TROUPIS and **CHRIS MOHRMAN, MICHAEL BEST & FRIEDRICH, LLP**, One South Pinckney Street, Suite 700, Madison, WI 53703, appearing on behalf of intervening plaintiff The Republican Party of Wisconsin;

LESTER PINES and **TAMARA PACKARD, CULLEN WESTON PINES & BACH**, Attorneys at Law, 122 West Washington Avenue, Suite 900, Madison, WI 53703, appearing on behalf of the defendants;

AMERICAN OVERSIGHT

APPEARANCES (Continued):

MATTHEW O'NEILL, FRIEBERT, FINERTY & ST. JOHN, S.C., Two Plaza East, 330 Kilbourn Avenue, Milwaukee, WI 53202, appearing on behalf of intervening defendant The Democratic Party of Wisconsin;

EDWARD GARVEY and **CHRISTA WESTERBERG, GARVEY McNEIL & McGILLIVRAY, S.C.,** 634 West Main Street, Suite 101, Madison, WI 53703, appearing on behalf of intervening defendants Madison Teachers, Inc., American Federation of Teachers-Wisconsin, and Firefighters Local 311;

RICHARD SAKS and **JEFFREY SWEETLAND, HAWKS QUINDEL EHLKE & PERRY, S.C.,** 700 West Michigan, Suite 500, PO Box 442, Milwaukee, WI 53201-0442, appearing on behalf of intervening defendants Milwaukee Branch of the NAACP and Milwaukee Teachers Education Association.

AMERICAN OVERSIGHT

(Transcript of Court's Decision)

THE COURT: Once again, thank you, counsel, for your arguments which have, as Mr. Troupis said, been civil, and I appreciate that, especially in something like this, that is so politically charged. So with that, I will decide the motions to dismiss that are before me today.

As you know, we're here because Wisconsin is late in complying with the federal Help America Vote Act requirement that Wisconsin implement a computerized voter database list. This requirement was effective as of January 1st, 2006, and it has only recently been put into full operation. What caused, I think, the attorney general to file the complaint was the Government Accountability Board's plan, which it adopted in the summer and has put into effect, to conduct and provide what are so-called HAVA checks on all new voter registrations entered after August 6, 2008.

The board declined, at least prior to the November 4th election, to run HAVA checks or coordinate information with other agency databases, like Social Security, like the Department of Transportation, on those voter registrations received between January 1,

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2006 and August 6th. And it is that decision that causes the attorney general to come into court.

The Wisconsin attorney general has filed really a three-part action, one that asks that the court order a writ of mandamus. Basically that's a writ directed to a public official or a board directing that board or public official to comply with the law. The attorney general has also asked that the court declare, through what's called declaratory judgment, that the board has violated the law; and that the court enjoin or issue an injunction against further violations of the law, essentially the flip side of asking for the writ of mandamus.

In its request for mandamus relief, the board asks that I require, that I order the -- I'm sorry. The attorney general asks that I order the board to take all steps necessary to ensure that prior to November 4th that the statewide computerized voter registration list is brought into compliance with HAVA and state law. And at a minimum, says the attorney general, that requires that ineligible voters be identified and removed, and that for individuals who registered on and after January 1, 2006 and prior to August 8, 2008, that their eligibility to vote must be verified by the same steps as applied to individuals

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registering on or before August 6th, 2008, including HAVA checks where applicable.

Now, the attorney general has modified that request for immediate relief somewhat, but I think the complaint can still be read as asking that the court order HAVA checks for everyone. It is correct that the attorney general is not telling, asking the court to tell the board what to do in the event of a mismatch. It seems that at this point the attorney general agrees that that is something that is within the board's discretion.

Now, the Republican Party of Wisconsin is asking for something a little bit different. It intervened, adopted the attorney general's complaint, but made a separate request for mandamus relief. One is that the Republican Party is saying don't force this obligation on local officials; make it the obligation of the Government Accountability Board.

The second thing that the Republican Party is asking is that for any nonmatch registrations for which no corrective action can be taken, that such registrations remain on the voter list but be flagged as "needs identification" on election day, and that they proceed that way at the polls.

As an alternative, if this court would decide

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WI-REP-22-0106-A-000014

that that's not practically doable, the Republican Party asks that I simply single out registrations conducted through deputy registrars. In its brief, the Republican Party clarifies that this means HAVA checks in parts of Wisconsin "where there is knowledge that criminal activity has taken place."

Of course, there is no evidence before this court, nor is this the time for there to be evidence before the court as to criminal activity. So I think that's something for which there is no competent evidence before the court at this time.

Now, all defendants have moved to dismiss the complaint on multiple grounds, the first of which is failure to state a claim upon which relief can be granted. On a motion to dismiss the court accepts as true the factual allegations of the complaint, not the legal statements in the complaint, but the facts, and then decides whether, given those facts, the complaint can be supported under the law.

The attorney general's complaint is premised on §5.07 of the Wisconsin Statutes which authorizes the attorney general to sue for violations of law relating to the conduct of elections, whether those violations are occurring, have occurred, or are about to occur. So to decide whether the Wisconsin AG has stated a

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claim, it is necessary for me to address Wisconsin law on voter qualifications, federal law, and particularly HAVA, and then determine where federal law and state law intersect.

First, Wisconsin law. The Wisconsin Constitution guarantees, and Wisconsin Statutes protect, the right to vote in Wisconsin. The right to vote is so fundamental because it is the gateway for citizens to preserve other basic civil and political rights. Wisconsin's progressive tradition of protecting the franchise goes back to statehood. In one of the earliest State Supreme Court cases, called *Wood v. Baker*, the court set the tone for the next century and a half. And the court said, "The constitution," the Wisconsin Constitution, "vests and warrants the right to vote at the time of election, and everyone having the constitutional qualifications then may go to the polls vested with this franchise, of which no statutory condition precedent can deprive him."

The court went on to note in that case and in later cases that even errors of election officials in compiling voter lists can't defeat the right to vote in this state. I won't take you on a forced march through the decades of Wisconsin voter law because I think the

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Supreme Court four years ago pretty cogently summarized what the law is. The court did walk through all of those cases and concluded in *Roth v. LaFarge School District Board of Canvassers* in 2004, this is Justice Crooks speaking for a unanimous court: It is evident, the court said, noting Wisconsin's proud history of protecting the right to vote, "It is evident that this court has consistently placed a premium on giving effect to the will of the voter." And not just the will of the voter with respect to whether there's a checkmark in the right place, whether, if we were in Florida, hanging chads, or any other formal problem, but the will of the voter in terms of the ability to go to the polls, vested with the franchise.

This respect for the right to vote, the franchise, appears in the very first provision of our elections statutes. §5.01(1) says, "Chapters 5 through 12," which are the voter and election and campaign laws, "shall be construed to give effect to the will of the electorate if that can be ascertained, notwithstanding informality or failure to fully comply with some of these provisions."

We see Wisconsin's presumption in favor of the free exercise of the vote again in the Wisconsin registration procedure, and that's contained in

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Chapter 6. Wisconsin is unusual among the states in that it permits same day registration at the polls. In the Republican Party's August 14, 2008 request to the Government Accountability Board that laid the basis for this action, the Republican Party was critical of Wisconsin's statutes permitting same day registration, and labeled it "Wisconsin's exceptionally lax registration rules." But this in fact is how the Wisconsin legislature has chosen to protect Wisconsin's fundamental right to vote.

Now, who is eligible to vote in Wisconsin? Mr. Saks touched on a few of the qualifications. There are a few others. Article III, Section 1 of the Wisconsin Constitution says every Wisconsin citizen age 18 or older who is a resident of an election district is a qualified elector. Section 2 then of that constitutional provision states, the legislature may enact laws excluding convicted felons and people who have been found by a court to be incompetent, and defining what residence means. And the Wisconsin legislature has done this in §6.02 and §6.03. So truly, convicted felons who have not been restored their civil rights cannot vote in this state, nor can incompetent people.

I was surprised to learn that the legislature

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also said that no one can vote if he or she has made a bet about the outcome of the election. I hope that none of you in this room have done that.

Notably, though, there is no requirement in Wisconsin law that there be a driver's license or a Social Security number for registration. There is no state law requirement that data in a voter list must match data kept by any other agency as a precondition to voting.

So we look then to federal law. As I've said, this lawsuit is about HAVA, Help America Vote Act, and this is, as you all know, a federal law passed following the tumultuous 2000 national election. Its purpose is to improve election administration among the 50 states, and the primary vehicle to do this is the funding program that HAVA established. And Wisconsin has been the beneficiary of millions of those federal dollars to set up its own system.

HAVA itself does not mandate voter qualifications, except in one limited instance for voters who register by mail. It leaves voter qualifications to the states pursuant to HAVA §15485. And by the way, there have been some confusing references to different provisions of HAVA. I'm relying on the United States Code, 42 U.S. Code, and

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they're all five-digit numbers, kind of mind-numbing after you look at them for awhile, but they're contained in 42 U.S. Code, beginning at, the pertinent provisions, §15485, or 83.

HAVA does in §15483 require each state through its chief election official, here the nonpartisan Government Accountability Board, to implement and maintain a "single, uniform, official, centralized, interactive, computerized statewide voter registration list."

With respect to maintenance of this list, HAVA is explicit that removal of names occurs only in accordance with state law for states, like Wisconsin, which permit voter registration at the polls on the day of election. HAVA is also quite clear on each state's discretion. For purposes of HAVA's election technology and administration requirements, which include the voter list requirement, the law provides, HAVA provides, "The specific choices on the methods of complying with the requirements of this subchapter shall be left to the discretion of the state."

Now, to make sure that each state is accountable to its electorate, to any who might be watching, HAVA requires states to establish an administrative complaint procedure. And the state, as

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I'll go into a little bit later, has done that.

It's important that we not read HAVA in isolation though. HAVA has to be read in its context and its history, beginning with the Voting Rights Act of 1965. Most of us, through all of our lives -- most of us don't know life before the Voting Rights Act of 1965. It was an ugly situation, and I think those of you who do remember it understand why it was passed. It is part of our history, and it's part of the backdrop for HAVA.

One of the key provisions of the Voting Rights Act of 1965 is this: "No person, acting under color of state law, shall deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under state law to vote in such election." And of course the purpose of that provision was to make sure that people didn't walk into the polling place and have them say oh, you know, there's a slight problem with your registration. I'm sorry, you won't be able to vote. And it will turn out, and did turn out over and over, that the mistake, the omission, was insignificant, but

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nonetheless, these people were denied the right to vote.

HAVA recognizes the Voting Rights Act of 1965, and in its very last section, §15545, explicitly states that, "Nothing in HAVA authorizes conduct that would otherwise be prohibited under the Voting Rights Act of 1965."

Now, how has Wisconsin chosen to implement HAVA? There are four primary ways. First, §6.36 of the Wisconsin Statutes states that the Government Accountability Board shall compile and maintain electronically the official registration list. Subsection (2)(c) of that same statute provides that proof of residency at the polls is only required if the voter has registered by mail and has never previously voted in any election in this state. So that's statutory.

The second way that Wisconsin has chosen to implement HAVA. Our legislature in §5.05(10) has directed the Government Accountability Board to adopt a state election administration plan that meets HAVA so as to enable participation by this state in federal financial assistance programs. And because that deals with money, that plan, that state plan has to be also approved by the legislature's Joint Finance Committee.

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Third. §5.061 of the Wisconsin Statutes again. Following HAVA's command that the state create an administrative process, the legislature adopted a statute, and it's titled "Compliance with Federal HAVA," which authorizes any person who believes a HAVA violation has occurred to file a written verified complaint with the board." The statute then provides that the board must conduct a trial type hearing before the board, followed then by judicial review under Chapter 227 of the Wisconsin Statutes.

Judicial review procedures and the availability of Chapter 227 of the statutes is important here. It is the route. It is the check. It is the check and balance, the separation of powers, that prevents the Government Accountability Board from utilizing unchecked power and to taking matters into its own hands and deciding what it's going to do under HAVA or anything else without accountability to any citizen.

The fourth primary way that Wisconsin has chosen to implement HAVA is this, and it's most pertinent here. In accordance with HAVA's explicit provision that specific choices on the methods of complying with its requirements fall within the discretion of the state, the state, through the

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Government Accountability Board, has exercised that discretion and determined that, at least at this time, it will match databases only from August 6, 2008 forward. That is exactly the kind of discretionary decision-making the Government Accountability Board was created to do. It is exactly the kind of discretion HAVA left with the states in HAVA §1.5485.

On November 4th each qualified voter in Wisconsin will go to the polls, as our Supreme Court said in 1875, vested with the franchise. It doesn't matter if the DOT has misspelled his name or if her middle initial is missing on the voter list. Neither HAVA nor state law require a database match as a precondition to voting. Nor do they require that the voter show any proof of eligibility, essentially to reregister, in the event of a mismatch.

Hundreds of pages of paper have been filed, and they boil down to this one reality. Nothing in state or federal law requires that there be a data match as a condition on the right to vote. HAVA does not supplant Wisconsin's constitutionally protected right to establish its own voter eligibility standards.

The attorney general's lawsuit against the Government Accountability Board is completely based on §5.07, which authorizes the attorney general to sue for

AMERICAN OVERSIGHT

an injunction or writ of mandamus whenever a violation of the laws regulating the conduct of elections or election campaigns occurs or is proposed to occur. What I have just told you in my opinion shows that no violation of state or federal law regulating the conduct of elections is about to occur or has occurred. And the attorney general has presented no other basis upon which this court could act.

For a court to issue a writ of mandamus, a plaintiff needs to show a clear legal right to relief and a positive, plain duty on the part of the official to whom the writ would be directed. This is sometimes characterized as a ministerial duty, and by that it means a duty for which there's no discretion. The board, the official, has to do it. It's a no-brainer. No discretion involved. And that is the kind of duty that's required before a writ of mandamus can issue. And so the attorney general's complaint, even if I take the factual allegations to be true, has not stated a clear legal right to relief or a positive and plain duty.

The complaint must therefore be dismissed for failure to state a claim upon which relief, whether by mandamus, injunction, or declaration of rights, may be granted.

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WI-REP-22-0106-A-000025

Although I am dismissing the complaint for failure to state a claim and need not consider other grounds for dismissal, I do address, as an alternative basis for this decision today, the defendants' motions to dismiss for lack of standing, both as to the Wisconsin attorney general and the Republican Party of Wisconsin. I think it goes without saying, before I reach the standing issue, that what I have said about failure to state a claim with respect to the attorney general is also true for the Republican Party of Wisconsin's claim. It essentially repeats the allegations of the attorney general's complaint and simply asks for a different form of relief. That complaint has failed to state a claim as well.

Nevertheless, I do discuss standing. Standing is basically the right of an individual or entity to file a lawsuit, to come to court. In Wisconsin and in most other states there's a separate but related principle that provides that where a statute provides a method for getting a court to act in a matter, that's the method you're stuck with. No one, not you, not me, or the attorney general, can disregard or ignore the method that's been established by the legislature. And here, both HAVA and state law instruct on what to do if a person believes that HAVA

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has been violated.

First, in HAVA §15511, HAVA has authorized the United States attorney general to bring a civil action against any state in federal court as may be necessary to carry out the election administration provisions of HAVA. The very next section of HAVA requires that states create an administrative process, which Wisconsin has done, in §5.061. The attorney general did not use the process established in §5.061, and went directly to what he believed his powers were under §5.07. As I've already decided though, that section does not give the attorney general power to enforce HAVA or the Wisconsin laws related to HAVA.

By way of contrast, the legislature has treated violations of the Voting Rights Act of 1965 differently. Mr. Saks mentioned this in his argument this morning. And it did so by directly authorizing the attorney general to commence an action on behalf of any voter in this state whose rights have been violated.

The conclusion to be drawn here is that the legislature knows how to give the attorney general authority to sue. And the legislature did so for the Voting Rights Act but not for HAVA. The attorney general is without standing in this action.

AMERICAN OVERSIGHT

The Republican Party makes a different argument to support its standing to enforce HAVA. Until September -- until about a week ago it was at least arguable that political parties could sue on behalf of their members to enforce HAVA. And that's what the Sixth Circuit Court of Appeals seemed to be deciding when it granted a temporary restraining order in *Ohio Republican Party vs. Brunner*.

Three days after the Sixth Circuit issued its decision, the United States Supreme Court in that same case confirmed that HAVA did not create a private right of action that would allow individuals or groups who would represent them to file lawsuits enforcing HAVA. And the court vacated the restraining order that had been entered there.

Now, timing is everything. Parties were in the midst of their briefing schedules and were aware, as I was too, that the *Brunner* case had come out. And acknowledging *Brunner*, the Republican Party of Wisconsin, I think rather deftly, changed its focus and invoked the citizens' right to use mandamus to compel a public official's compliance with law. But that simply takes us back to the beginning. There's no right to mandamus relief without a positive, plain duty under the law. And I have already determined that the

AMERICAN OVERSIGHT

Government Accountability Board has no positive, plain duty upon which the Republican Party's or the attorney general's request for relief could be granted. And certainly, there is no basis upon which the Republican Party of Wisconsin could bypass the procedure for HAVA complaints in §5.061.

The argument has been made in the briefs that compliance with that administrative complaint process up to and including judicial review under 227 is futile. And when time is running out, how can we make people go to a complaint process that could take months to complete. But Chapter 227 accounts for that and allows stays under §227.54. Courts can intervene when necessary, even under Chapter 227, which appears to set up a laborious process. Believe me, we've all seen cases where Chapter 227 was fully utilized to provide immediate and effective relief by a court, and thereby making sure that government action, government agency action was not left unchecked.

And so in the absence of any federal or state law requirement conditioning the right to vote on a HAVA check or having people flagged to reregister at the polls, the court is without authority to create such a requirement. To do so would be substituting a judge's opinion as to who can vote and how and when for

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the eligibility criteria actually established by the constitution and by state law.

For all of these reasons, the motions to dismiss are granted and the complaints are dismissed.

(WHICH CONCLUDES REQUESTED PORTION OF TRANSCRIPT)

AMERICAN OVERSIGHT

WI-REP-22-0106-A-000030

CERTIFICATE

I, GERI HOLMES, Official Court Reporter, certify that the foregoing is a true and accurate partial transcript of proceedings held on the 23rd day of October 2008, before the Honorable **MARYANN SUMI**, Dane County Circuit Court Judge, Branch 2, in my presence and reduced to writing in accordance with my stenographic notes made at said time and place.

Dated at Madison, Wisconsin, this 23rd day of October 2008.

Geri Holmes
Court Reporter

AMERICAN OVERSIGHT

STATE OF WISCONSIN **CIRCUIT COURT** **COUNTY OF DANE**
BRANCH 2

J.B. VAN HOLLEN,
In his official capacity as
Attorney General of the State
Of Wisconsin,

Plaintiff,

REPUBLICAN PARTY
OF WISCONSIN,

Intervenor Plaintiff,

Vs. **Case No. 08CV4085**

GOVERNMENT ACCOUNTABILITY BOARD, THOMAS CANE, GERALD NICHOL, MICHAEL BRENNAN, WILLIAM EICH, VICTOR MANIAN, GORDON MYSE, KEVIN J. KENNEDY and NATHANIEL E. ROBINSON,

Defendants,

THE DEMOCRATIC PARTY OF WISCONSIN, MADISON TEACHERS INC., AMERICAN FEDERATION OF TEACHERS-WISCONSIN, MADISON FIREFIGHTERS LOCAL 311, MILWAUKEE BRANCH OF THE NAACP, and MILWAUKEE TEACHERS' EDUCATION ASSOCIATION,

Intervenor Defendants.

ORDER

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For the reasons stated in the attached transcript of oral decision issued October 23, 2008, the defendants' motions to dismiss are granted. The complaints of Plaintiff Attorney General J.B. Van Hollen and Intervenor Plaintiff Republican Party of Wisconsin are hereby DISMISSED.

This is a final order that disposes of the entire matter in litigation between the parties and is intended to be an appealable order within the meaning of § 808.03(1), Wis. Stats.

Dated this 23rd day of October, 2008.

BY THE COURT

Maryann Sumi, Judge
Circuit Court Branch 2

Cc: AAG Steven Means
Atty. Lester Pines
Atty. James Troupis
Atty. Robert Friebert
Atty. Edward Garvey
Atty. Richard Saks
Atty. John Skilton

AMERICAN OVERSIGHT

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY
BRANCH 2

* *

J.B. VAN HOLLEN in his
Official capacity as Attorney
General of Wisconsin, et al.,

Plaintiffs,

-vs- Case No. 08-CV-4085

GOVERNMENT ACCOUNTABILITY
BOARD, et al.,

Defendants.

* *

DATE: October 23, 2008

PROCEEDINGS: Motion Hearing

BEFORE: The Honorable **MARYANN SUMI**

A P P E A R A N C E S

STEVEN MEANS and **CHARLES HOORNSTRA**, Assistant Attorneys General, Wisconsin Department of Justice, 17 West Main Street, PO Box 7857, Madison, WI 53707-7857, appearing on behalf of the plaintiffs;

JAMES TROUPIS and **CHRIS MOHRMAN, MICHAEL BEST & FRIEDRICH, LLP**, One South Pinckney Street, Suite 700, Madison, WI 53703, appearing on behalf of intervening plaintiff The Republican Party of Wisconsin;

LESTER PINES and **TAMARA PACKARD, CULLEN WESTON PINES & BACH**, Attorneys at Law, 122 West Washington Avenue, Suite 900, Madison, WI 53703, appearing on behalf of the defendants;

AMERICAN OVERSIGHT

APPEARANCES (Continued):

MATTHEW O'NEILL, FRIEBERT, FINERTY & ST. JOHN, S.C., Two Plaza East, 330 Kilbourn Avenue, Milwaukee, WI 53202, appearing on behalf of intervening defendant The Democratic Party of Wisconsin;

EDWARD GARVEY and **CHRISTA WESTERBERG, GARVEY McNEIL & McGILLIVRAY, S.C.,** 634 West Main Street, Suite 101, Madison, WI 53703, appearing on behalf of intervening defendants Madison Teachers, Inc., American Federation of Teachers-Wisconsin, and Firefighters Local 311;

RICHARD SAKS and **JEFFREY SWEETLAND, HAWKS QUINDEL EHLKE & PERRY, S.C.,** 700 West Michigan, Suite 500, PO Box 442, Milwaukee, WI 53201-0442, appearing on behalf of intervening defendants Milwaukee Branch of the NAACP and Milwaukee Teachers Education Association.

AMERICAN OVERSIGHT

(Transcript of Court's Decision)

THE COURT: Once again, thank you, counsel, for your arguments which have, as Mr. Troupis said, been civil, and I appreciate that, especially in something like this, that is so politically charged. So with that, I will decide the motions to dismiss that are before me today.

As you know, we're here because Wisconsin is late in complying with the federal Help America Vote Act requirement that Wisconsin implement a computerized voter database list. This requirement was effective as of January 1st, 2006, and it has only recently been put into full operation. What caused, I think, the attorney general to file the complaint was the Government Accountability Board's plan, which it adopted in the summer and has put into effect, to conduct and provide what are so-called HAVA checks on all new voter registrations entered after August 6, 2008.

The board declined, at least prior to the November 4th election, to run HAVA checks or coordinate information with other agency databases, like Social Security, like the Department of Transportation, on those voter registrations received between January 1,

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2006 and August 6th. And it is that decision that causes the attorney general to come into court.

The Wisconsin attorney general has filed really a three-part action, one that asks that the court order a writ of mandamus. Basically that's a writ directed to a public official or a board directing that board or public official to comply with the law. The attorney general has also asked that the court declare, through what's called declaratory judgment, that the board has violated the law; and that the court enjoin or issue an injunction against further violations of the law, essentially the flip side of asking for the writ of mandamus.

In its request for mandamus relief, the board asks that I require, that I order the -- I'm sorry. The attorney general asks that I order the board to take all steps necessary to ensure that prior to November 4th that the statewide computerized voter registration list is brought into compliance with HAVA and state law. And at a minimum, says the attorney general, that requires that ineligible voters be identified and removed, and that for individuals who registered on and after January 1, 2006 and prior to August 8, 2008, that their eligibility to vote must be verified by the same steps as applied to individuals

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registering on or before August 6th, 2008, including HAVA checks where applicable.

Now, the attorney general has modified that request for immediate relief somewhat, but I think the complaint can still be read as asking that the court order HAVA checks for everyone. It is correct that the attorney general is not telling, asking the court to tell the board what to do in the event of a mismatch. It seems that at this point the attorney general agrees that that is something that is within the board's discretion.

Now, the Republican Party of Wisconsin is asking for something a little bit different. It intervened, adopted the attorney general's complaint, but made a separate request for mandamus relief. One is that the Republican Party is saying don't force this obligation on local officials; make it the obligation of the Government Accountability Board.

The second thing that the Republican Party is asking is that for any nonmatch registrations for which no corrective action can be taken, that such registrations remain on the voter list but be flagged as "needs identification" on election day, and that they proceed that way at the polls.

As an alternative, if this court would decide

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that that's not practically doable, the Republican Party asks that I simply single out registrations conducted through deputy registrars. In its brief, the Republican Party clarifies that this means HAVA checks in parts of Wisconsin "where there is knowledge that criminal activity has taken place."

Of course, there is no evidence before this court, nor is this the time for there to be evidence before the court as to criminal activity. So I think that's something for which there is no competent evidence before the court at this time.

Now, all defendants have moved to dismiss the complaint on multiple grounds, the first of which is failure to state a claim upon which relief can be granted. On a motion to dismiss the court accepts as true the factual allegations of the complaint, not the legal statements in the complaint, but the facts, and then decides whether, given those facts, the complaint can be supported under the law.

The attorney general's complaint is premised on §5.07 of the Wisconsin Statutes which authorizes the attorney general to sue for violations of law relating to the conduct of elections, whether those violations are occurring, have occurred, or are about to occur. So to decide whether the Wisconsin AG has stated a

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claim, it is necessary for me to address Wisconsin law on voter qualifications, federal law, and particularly HAVA, and then determine where federal law and state law intersect.

First, Wisconsin law. The Wisconsin Constitution guarantees, and Wisconsin Statutes protect, the right to vote in Wisconsin. The right to vote is so fundamental because it is the gateway for citizens to preserve other basic civil and political rights. Wisconsin's progressive tradition of protecting the franchise goes back to statehood. In one of the earliest State Supreme Court cases, called *Wood v. Baker*, the court set the tone for the next century and a half. And the court said, "The constitution," the Wisconsin Constitution, "vests and warrants the right to vote at the time of election, and everyone having the constitutional qualifications then may go to the polls vested with this franchise, of which no statutory condition precedent can deprive him."

The court went on to note in that case and in later cases that even errors of election officials in compiling voter lists can't defeat the right to vote in this state. I won't take you on a forced march through the decades of Wisconsin voter law because I think the

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Supreme Court four years ago pretty cogently summarized what the law is. The court did walk through all of those cases and concluded in *Roth v. LaFarge School District Board of Canvassers* in 2004, this is Justice Crooks speaking for a unanimous court: It is evident, the court said, noting Wisconsin's proud history of protecting the right to vote, "It is evident that this court has consistently placed a premium on giving effect to the will of the voter." And not just the will of the voter with respect to whether there's a checkmark in the right place, whether, if we were in Florida, hanging chads, or any other formal problem, but the will of the voter in terms of the ability to go to the polls, vested with the franchise.

This respect for the right to vote, the franchise, appears in the very first provision of our elections statutes. §5.01(1) says, "Chapters 5 through 12," which are the voter and election and campaign laws, "shall be construed to give effect to the will of the electorate if that can be ascertained, notwithstanding informality or failure to fully comply with some of these provisions."

We see Wisconsin's presumption in favor of the free exercise of the vote again in the Wisconsin registration procedure, and that's contained in

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Chapter 6. Wisconsin is unusual among the states in that it permits same day registration at the polls. In the Republican Party's August 14, 2008 request to the Government Accountability Board that laid the basis for this action, the Republican Party was critical of Wisconsin's statutes permitting same day registration, and labeled it "Wisconsin's exceptionally lax registration rules." But this in fact is how the Wisconsin legislature has chosen to protect Wisconsin's fundamental right to vote.

Now, who is eligible to vote in Wisconsin? Mr. Saks touched on a few of the qualifications. There are a few others. Article III, Section 1 of the Wisconsin Constitution says every Wisconsin citizen age 18 or older who is a resident of an election district is a qualified elector. Section 2 then of that constitutional provision states, the legislature may enact laws excluding convicted felons and people who have been found by a court to be incompetent, and defining what residence means. And the Wisconsin legislature has done this in §6.02 and §6.03. So truly, convicted felons who have not been restored their civil rights cannot vote in this state, nor can incompetent people.

I was surprised to learn that the legislature

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also said that no one can vote if he or she has made a bet about the outcome of the election. I hope that none of you in this room have done that.

Notably, though, there is no requirement in Wisconsin law that there be a driver's license or a Social Security number for registration. There is no state law requirement that data in a voter list must match data kept by any other agency as a precondition to voting.

So we look then to federal law. As I've said, this lawsuit is about HAVA, Help America Vote Act, and this is, as you all know, a federal law passed following the tumultuous 2000 national election. Its purpose is to improve election administration among the 50 states, and the primary vehicle to do this is the funding program that HAVA established. And Wisconsin has been the beneficiary of millions of those federal dollars to set up its own system.

HAVA itself does not mandate voter qualifications, except in one limited instance for voters who register by mail. It leaves voter qualifications to the states pursuant to HAVA §15485. And by the way, there have been some confusing references to different provisions of HAVA. I'm relying on the United States Code, 42 U.S. Code, and

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they're all five-digit numbers, kind of mind-numbing after you look at them for awhile, but they're contained in 42 U.S. Code, beginning at, the pertinent provisions, §15485, or 83.

HAVA does in §15483 require each state through its chief election official, here the nonpartisan Government Accountability Board, to implement and maintain a "single, uniform, official, centralized, interactive, computerized statewide voter registration list."

With respect to maintenance of this list, HAVA is explicit that removal of names occurs only in accordance with state law for states, like Wisconsin, which permit voter registration at the polls on the day of election. HAVA is also quite clear on each state's discretion. For purposes of HAVA's election technology and administration requirements, which include the voter list requirement, the law provides, HAVA provides, "The specific choices on the methods of complying with the requirements of this subchapter shall be left to the discretion of the state."

Now, to make sure that each state is accountable to its electorate, to any who might be watching, HAVA requires states to establish an administrative complaint procedure. And the state, as

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I'll go into a little bit later, has done that.

It's important that we not read HAVA in isolation though. HAVA has to be read in its context and its history, beginning with the Voting Rights Act of 1965. Most of us, through all of our lives -- most of us don't know life before the Voting Rights Act of 1965. It was an ugly situation, and I think those of you who do remember it understand why it was passed. It is part of our history, and it's part of the backdrop for HAVA.

One of the key provisions of the Voting Rights Act of 1965 is this: "No person, acting under color of state law, shall deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under state law to vote in such election." And of course the purpose of that provision was to make sure that people didn't walk into the polling place and have them say oh, you know, there's a slight problem with your registration. I'm sorry, you won't be able to vote. And it will turn out, and did turn out over and over, that the mistake, the omission, was insignificant, but

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nonetheless, these people were denied the right to vote.

HAVA recognizes the Voting Rights Act of 1965, and in its very last section, §15545, explicitly states that, "Nothing in HAVA authorizes conduct that would otherwise be prohibited under the Voting Rights Act of 1965."

Now, how has Wisconsin chosen to implement HAVA? There are four primary ways. First, §6.36 of the Wisconsin Statutes states that the Government Accountability Board shall compile and maintain electronically the official registration list. Subsection (2)(c) of that same statute provides that proof of residency at the polls is only required if the voter has registered by mail and has never previously voted in any election in this state. So that's statutory.

The second way that Wisconsin has chosen to implement HAVA. Our legislature in §5.05(10) has directed the Government Accountability Board to adopt a state election administration plan that meets HAVA so as to enable participation by this state in federal financial assistance programs. And because that deals with money, that plan, that state plan has to be also approved by the legislature's Joint Finance Committee.

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Third. §5.061 of the Wisconsin Statutes again. Following HAVA's command that the state create an administrative process, the legislature adopted a statute, and it's titled "Compliance with Federal HAVA," which authorizes any person who believes a HAVA violation has occurred to file a written verified complaint with the board." The statute then provides that the board must conduct a trial type hearing before the board, followed then by judicial review under Chapter 227 of the Wisconsin Statutes.

Judicial review procedures and the availability of Chapter 227 of the statutes is important here. It is the route. It is the check. It is the check and balance, the separation of powers, that prevents the Government Accountability Board from utilizing unchecked power and to taking matters into its own hands and deciding what it's going to do under HAVA or anything else without accountability to any citizen.

The fourth primary way that Wisconsin has chosen to implement HAVA is this, and it's most pertinent here. In accordance with HAVA's explicit provision that specific choices on the methods of complying with its requirements fall within the discretion of the state, the state, through the

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Government Accountability Board, has exercised that discretion and determined that, at least at this time, it will match databases only from August 6, 2008 forward. That is exactly the kind of discretionary decision-making the Government Accountability Board was created to do. It is exactly the kind of discretion HAVA left with the states in HAVA §1.5485.

On November 4th each qualified voter in Wisconsin will go to the polls, as our Supreme Court said in 1875, vested with the franchise. It doesn't matter if the DOT has misspelled his name or if her middle initial is missing on the voter list. Neither HAVA nor state law require a database match as a precondition to voting. Nor do they require that the voter show any proof of eligibility, essentially to reregister, in the event of a mismatch.

Hundreds of pages of paper have been filed, and they boil down to this one reality. Nothing in state or federal law requires that there be a data match as a condition on the right to vote. HAVA does not supplant Wisconsin's constitutionally protected right to establish its own voter eligibility standards.

The attorney general's lawsuit against the Government Accountability Board is completely based on §5.07, which authorizes the attorney general to sue for

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an injunction or writ of mandamus whenever a violation of the laws regulating the conduct of elections or election campaigns occurs or is proposed to occur. What I have just told you in my opinion shows that no violation of state or federal law regulating the conduct of elections is about to occur or has occurred. And the attorney general has presented no other basis upon which this court could act.

For a court to issue a writ of mandamus, a plaintiff needs to show a clear legal right to relief and a positive, plain duty on the part of the official to whom the writ would be directed. This is sometimes characterized as a ministerial duty, and by that it means a duty for which there's no discretion. The board, the official, has to do it. It's a no-brainer. No discretion involved. And that is the kind of duty that's required before a writ of mandamus can issue. And so the attorney general's complaint, even if I take the factual allegations to be true, has not stated a clear legal right to relief or a positive and plain duty.

The complaint must therefore be dismissed for failure to state a claim upon which relief, whether by mandamus, injunction, or declaration of rights, may be granted.

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Although I am dismissing the complaint for failure to state a claim and need not consider other grounds for dismissal, I do address, as an alternative basis for this decision today, the defendants' motions to dismiss for lack of standing, both as to the Wisconsin attorney general and the Republican Party of Wisconsin. I think it goes without saying, before I reach the standing issue, that what I have said about failure to state a claim with respect to the attorney general is also true for the Republican Party of Wisconsin's claim. It essentially repeats the allegations of the attorney general's complaint and simply asks for a different form of relief. That complaint has failed to state a claim as well.

Nevertheless, I do discuss standing. Standing is basically the right of an individual or entity to file a lawsuit, to come to court. In Wisconsin and in most other states there's a separate but related principle that provides that where a statute provides a method for getting a court to act in a matter, that's the method you're stuck with. No one, not you, not me, or the attorney general, can disregard or ignore the method that's been established by the legislature. And here, both HAVA and state law instruct on what to do if a person believes that HAVA

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has been violated.

First, in HAVA §15511, HAVA has authorized the United States attorney general to bring a civil action against any state in federal court as may be necessary to carry out the election administration provisions of HAVA. The very next section of HAVA requires that states create an administrative process, which Wisconsin has done, in §5.061. The attorney general did not use the process established in §5.061, and went directly to what he believed his powers were under §5.07. As I've already decided though, that section does not give the attorney general power to enforce HAVA or the Wisconsin laws related to HAVA.

By way of contrast, the legislature has treated violations of the Voting Rights Act of 1965 differently. Mr. Saks mentioned this in his argument this morning. And it did so by directly authorizing the attorney general to commence an action on behalf of any voter in this state whose rights have been violated.

The conclusion to be drawn here is that the legislature knows how to give the attorney general authority to sue. And the legislature did so for the Voting Rights Act but not for HAVA. The attorney general is without standing in this action.

AMERICAN OVERSIGHT

The Republican Party makes a different argument to support its standing to enforce HAVA. Until September -- until about a week ago it was at least arguable that political parties could sue on behalf of their members to enforce HAVA. And that's what the Sixth Circuit Court of Appeals seemed to be deciding when it granted a temporary restraining order in *Ohio Republican Party vs. Brunner*.

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Now, timing is everything. Parties were in the midst of their briefing schedules and were aware, as I was too, that the *Brunner* case had come out. And acknowledging *Brunner*, the Republican Party of Wisconsin, I think rather deftly, changed its focus and invoked the citizens' right to use mandamus to compel a public official's compliance with law. But that simply takes us back to the beginning. There's no right to mandamus relief without a positive, plain duty under the law. And I have already determined that the

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Government Accountability Board has no positive, plain duty upon which the Republican Party's or the attorney general's request for relief could be granted. And certainly, there is no basis upon which the Republican Party of Wisconsin could bypass the procedure for HAVA complaints in §5.061.

The argument has been made in the briefs that compliance with that administrative complaint process up to and including judicial review under 227 is futile. And when time is running out, how can we make people go to a complaint process that could take months to complete. But Chapter 227 accounts for that and allows stays under §227.54. Courts can intervene when necessary, even under Chapter 227, which appears to set up a laborious process. Believe me, we've all seen cases where Chapter 227 was fully utilized to provide immediate and effective relief by a court, and thereby making sure that government action, government agency action was not left unchecked.

And so in the absence of any federal or state law requirement conditioning the right to vote on a HAVA check or having people flagged to reregister at the polls, the court is without authority to create such a requirement. To do so would be substituting a judge's opinion as to who can vote and how and when for

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the eligibility criteria actually established by the constitution and by state law.

For all of these reasons, the motions to dismiss are granted and the complaints are dismissed.

(WHICH CONCLUDES REQUESTED PORTION OF TRANSCRIPT)

AMERICAN OVERSIGHT

WI-REP-22-0106-A-000054

CERTIFICATE

I, GERI HOLMES, Official Court Reporter, certify that the foregoing is a true and accurate partial transcript of proceedings held on the 23rd day of October 2008, before the Honorable **MARYANN SUMI**, Dane County Circuit Court Judge, Branch 2, in my presence and reduced to writing in accordance with my stenographic notes made at said time and place.

Dated at Madison, Wisconsin, this 23rd day of October 2008.

Geri Holmes
Court Reporter

AMERICAN OVERSIGHT

State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5380/1
MPG:emw

2021 ASSEMBLY JOINT RESOLUTION

Relating to: calling for the resignation of the administrator, assistant administrator, and several members of the Wisconsin Elections Commission.

Whereas, the Wisconsin Constitution vests the power to make and change laws in the Wisconsin Legislature; and

Whereas, through an Act, the Legislature created the Wisconsin Elections Commission to faithfully administer and enforce Wisconsin's election laws in a transparent manner, free from partisan bias; and

Whereas, on February 8, 2021, the Legislature charged the Legislative Audit Bureau with the task of evaluating the recent efforts by the Elections Commission to comply with election laws; and

Whereas, on October 22, 2021, the Legislative Audit Bureau reported its findings to the Legislature, identifying numerous instances of election law violations by the Elections Commission and its staff, including their failure to perform their statutorily required duties, issuance of elections guidance that contradicted existing

AMERICAN OVERSIGHT

statutes, and failure to promulgate administrative rules to reflect recent changes to elections statutes; and

Whereas, on October 28, 2021, the Racine County Sheriff's Office announced the results of an investigation, accusing several members of the Elections Commission of violating election laws by issuing directives to local government officials to illegally suspend the use of special voting deputies during the 2020 elections; and

Whereas, the purposeful actions of the administrator of the Elections Commission and several of its members to ignore or contravene existing laws in effect usurped the Legislature's constitutional authority to write the laws of this state, undermining the legitimacy of government in Wisconsin and the public's confidence in Wisconsin's elections process; and

Whereas, the egregious misconduct of Elections Commission Administrator Meagan Wolfe, Assistant Administrator Richard Rydecki, and Commissioners Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, and Mark L. Thomsen renders them unfit to serve in their current positions; now, therefore, be it

Resolved by the assembly, the senate concurring, That the Wisconsin Legislature forcefully urges Wisconsin Elections Commission Administrator Meagan Wolfe, Wisconsin Elections Commission Assistant Administrator Richard Rydecki, and Wisconsin Elections Commissioners Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, and Mark L. Thomsen to immediately resign from the Elections Commission; and, be it further

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Resolved, That failing such resignations, the Wisconsin Legislature should undertake all actions available to it under the law that are necessary to effect the abovenamed individuals' removal from the Elections Commission; and, be it further

Resolved, That the Wisconsin Legislature recommends that the Wisconsin attorney general conduct a thorough investigation of the abovenamed individuals' conduct in the administration of the 2020 elections and make referrals as necessary to the appropriate district attorneys for the filing of criminal charges.

(END)

AMERICAN OVERSIGHT

State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5380/1
MPG:emw

2021 ASSEMBLY JOINT RESOLUTION

Relating to: calling for the resignation of the administrator, assistant administrator, and several members of the Wisconsin Elections Commission.

Whereas, the Wisconsin Constitution vests the power to make and change laws in the Wisconsin Legislature; and

Whereas, through an Act, the Legislature created the Wisconsin Elections Commission to faithfully administer and enforce Wisconsin's election laws in a transparent manner, free from partisan bias; and

Whereas, on February 8, 2021, the Legislature charged the Legislative Audit Bureau with the task of evaluating the recent efforts by the Elections Commission to comply with election laws; and

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AMERICAN OVERSIGHT

statutes, and failure to promulgate administrative rules to reflect recent changes to elections statutes; and

Whereas, on October 28, 2021, the Racine County Sheriff's Office announced the results of an investigation, accusing several members of the Elections Commission of violating election laws by issuing directives to local government officials to illegally suspend the use of special voting deputies during the 2020 elections; and

Whereas, the purposeful actions of the administrator of the Elections Commission and several of its members to ignore or contravene existing laws in effect usurped the Legislature's constitutional authority to write the laws of this state, undermining the legitimacy of government in Wisconsin and the public's confidence in Wisconsin's elections process; and

Whereas, the egregious misconduct of Elections Commission Administrator Meagan Wolfe, Assistant Administrator Richard Rydecki, and Commissioners Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, and Mark L. Thomsen renders them unfit to serve in their current positions; now, therefore, be it

Resolved by the assembly, the senate concurring, That the Wisconsin Legislature forcefully urges Wisconsin Elections Commission Administrator Meagan Wolfe, Wisconsin Elections Commission Assistant Administrator Richard Rydecki, and Wisconsin Elections Commissioners Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, and Mark L. Thomsen to immediately resign from the Elections Commission; and, be it further

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Resolved, That failing such resignations, the Wisconsin Legislature should undertake all actions available to it under the law that are necessary to effect the abovenamed individuals' removal from the Elections Commission; and, be it further

Resolved, That the Wisconsin Legislature recommends that the Wisconsin attorney general conduct a thorough investigation of the abovenamed individuals' conduct in the administration of the 2020 elections and make referrals as necessary to the appropriate district attorneys for the filing of criminal charges.

(END)

AMERICAN OVERSIGHT

From: Jack Prodigy <jlat89@prodigy.net>
Sent: Monday, January 31, 2022, 2:11 PM
To: Rep.Ramthun@legis.wisconsin.gov
Cc: Rep.Brandtjen@legis.wisconsin.gov
Subject: 1918 registration date on voter rolls Walworth County WI

Good afternoon,

FYI

A reply from my County Clerk Walworth WI.

There are currently 5153 Walworth County active voters in the WISVOTE system with the default 1/1/1918 registration date.

There were 5035 voters in Walworth County with the default registration date of 1/1/1918that cast a ballot in the November 3, 2020 Election.

Since I know that this is a topic that is of interest, I am attaching a link to the Wisconsin Election Commission website that talks about why the 1/1/1918 default date of registration is in use.I hope this is helpful.

https://elections.wi.gov/node/7516

From the web site above (last paragraph)

It's important to note that a legally registered voter who has not changed any information which requires them to re-register **stays registered regardless of whether the clerk has asked for an update or not.** Except for individual efforts by an elections clerk to update the records for a voter with the default dates, those values for date of birth and date of registration in a voter's record remain there unless or until they have a reason to complete a new voter registration form, such as a change of address or name.

So how do you update the voter records?

Cheers,

John Latimer
460 Fox Lane
Walworth WI 53184

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AMERICAN OVERSIGHT

From: Carol Morris <carolmorris7@yahoo.com>

Sent: Monday, January 31, 2022, 1:22 PM

To: Undisclosed recipients:;

Subject: A Call to Justice

Dear Representative,

Please stand with Representative Ramthun to reclaim Wisconsin's 10 electoral votes. Do this thing for the sake of justice. We hold our elected officials responsible to always do the right thing.

Thank you,

Carol Morris

AMERICAN OVERSIGHT

WISCONSIN LEGISLATURE
P.O. Box 7882 • Madison, WI 53707-7882

FOR IMMEDIATE RELEASE

CONTACT:

Majority Leader Jim Steineke: (608) 266-2401
Assistant Majority Leader Kevin Petersen: (608) 266-3794
Caucus Vice-Chair: Cindi Duchow (608) 266-3007
Caucus Sargent at Arms Sam Kerkman: (608) 266-2530
JFC Vice-Chair Amy Loudenbeck: (608) 266-9967
JFC member Tony Kurtz: (608) 266-8531
JFC member Shannon Zimmerman: (608) 266-1526
Speaker Pro-Tempore Tyler August: (608) 266-1190
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Caucus Secretary Jesse James: (608) 266-9172
JFC Co-Chair Mark Born: (608) 266-2540
JFC member Terry Katsma: (608) 266-0656
JFC member Jessie Rodriguez: (608) 266-0610

Statement from Assembly Republican Leadership on Reallocation of Tim Ramthun's staffer

MADISON – The membership of the Assembly Republican leadership team released the following statement:

"In order to ensure the safety and security of the 2022 election, the Assembly Republican caucus has been united in our desire to get to the bottom of any 2020 election regularities and fraud. It is why we appointed Justice Gableman as special counsel to oversee the investigation.

"The word "misinformation" is too often used in today's political discourse as a way to completely discount your opponent's position. However, adhering to the true sense of the word, Rep. Ramthun and his staffer are spreading misinformation.

"Speaker Vos has never worked with Hillary Clinton's attorney to authorize drop boxes across the country. His involvement in NCSL did not involve anything having to do with drop boxes. In fact, Rep. Ramthun himself has sponsored legislation that would allow for a ballot to be returned to a drop box.

"With the exception of one person, credible attorneys everywhere have come up with the same legal theory: We do not have the authority to decertify the 2020 election. Working with the Trump Campaign, all of us worked to stop Madison's illegal "Democracy in the Park" ballot harvesting operation.

"We support Speaker Vos' actions. No matter how much Rep. Ramthun and his staffer believe what they are saying is true, it does not make it so. Sending out communications full of lies is doing disservice to all voters. With so much information to parse through on the internet and in traditional media, we all must do a better job of listening and communicating."

###

AMERICAN OVERSIGHT

From: WisconsinEye Morning Minute <press@wiseye.org>
Sent: Friday, December 10, 2021, 8:59 AM
To: Janel <rep.brandtjen@legis.wisconsin.gov>
Subject: Assembly Campaigns & Elections Committee on Election Abuses

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AMERICAN OVERSIGHT

Assembly Campaigns & Elections Committee on Election Abuses

As reported by WisPolitics.com, the Assembly Campaigns and Elections Committee held two informational hearings on Wednesday, one on election abuses and the other on the voter rolls.

The lone witness listed for the hearing on election abuses wasErick Kaardal,

AMERICAN OVERSIGHT

Minneapolis attorney for conservative Wisconsin Voters Alliance and Thomas More Society, who filed an unsuccessful lawsuit seeking to overturn Wisconsin's election results.

A federal judge has recommended Kaardal face discipline for the suit, and records show he has an office-sharing agreement with former state Supreme Court Justice Michael Gableman in his review of the 2020 election.

In related news, Wisconsin Elections Commission threw out challenges to private grants issued to municipalities that helped them run elections during the pandemic.

At issue is $8.8 million in grants for the Center for Tech and Civic Life distributed to Wisconsin's five largest cities - Milwaukee, Madison, Green Bay, Racine and Kenosha.

Kardaal, says groups will appeal. They also plan a new round of complaints accusing officials in the five cities of breaking laws that prohibit accepting anything of value to vote by taking the private funds.

In this segment, Kaardal previewsthe bribery argument he'll raise in the new round of complaints.

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AMERICAN OVERSIGHT

From: "Rep.Sanfelippo" <Rep.Sanfelippo@legis.wisconsin.gov>
Sent: Monday, December 6, 2021, 9:31 AM
To: "Rep.Sanfelippo" <Rep.Sanfelippo@legis.wisconsin.gov>
Subject: Co-sponsorship of LRB-5380 – Calling for the resignation of the administrator, assistant administrator, and several members of the Wisconsin Elections Commission
Attachments: 21-5380_1.pdf

Co-Sponsorship Memorandum

To: All Legislators

From: Rep. Joe Sanfelippo

Date: December 6, 2021

Re: Co-sponsorship of LRB-5380 – calling for the resignation of the administrator, assistant administrator, and several members of the Wisconsin Elections Commission.

Deadline: THURSDAY, December 9th at Noon

In recent years, despite its statutory duty to administer and ensure compliance with election laws, the Wisconsin Elections Commission has taken actions that have clearly contravened existing statutes. These have included the Wisconsin Elections Commission ordering local clerks to illegally suspend the use of special voting deputies, neglecting to properly maintain accurate voter registration records, and failing to promulgate administrative rules necessary to implement state statutes, among other issues. Consequently, the Legislature directed the Wisconsin Legislative Audit Bureau to conduct a review of the Wisconsin Elections Commission's actions and their compliance with current laws.

In its recent report, the Wisconsin Legislative Audit Bureau identified multiple examples of the Wisconsin Elections Commission and its staff violating election laws by refusing to perform their statutorily prescribed duties, issuing election guidance that contradicted existing statutes, and failing to promulgate administrative rules to reflect recent changes to election statutes. These findings represent the latest examples of the Wisconsin Elections Commission's ongoing disinterest in adhering to the constraints or the obligations that our state's laws impose on the agency.

It has become increasingly clear that certain officials at the Wisconsin Elections Commission have repeatedly disregarded their duty to faithfully and impartially implement our election laws. Instead, by continually taking actions directly inconsistent with state laws, these Wisconsin Elections Commission officials have effectively appropriated the lawmaking

AMERICAN OVERSIGHT

authority of the Legislature by illegally substituting their own preferences and agendas in place of the clear directives of the democratically elected representatives of the public.

The Legislature cannot let stand such a brazen and intentional usurpation of its constitutional prerogative over creating the law by a few individuals abusing the authority of their official positions. This resolution seeks to hold these individuals accountable by formally demanding the immediate resignations of Wisconsin Elections Commission Administrator Meagan Wolfe, Assistant Administrator Richard Rydecki, and Commissioners Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, and Mark L. Thomsen, and expressing the Legislature's intent to pursue their removal should they refuse. The resolution further urges the Attorney General to conduct a thorough investigation into these individuals' actions and to make criminal referrals to local district attorneys as appropriate and supported by their findings.

If you would like to co-sponsor LRB-5380, please reply to this email, contact Rep. Sanfelippo's office 6-0620 no later than Thursday, December 9th at Noon.

AMERICAN OVERSIGHT

From: nicole koback <nickelback1@msn.com>
Sent: Thursday, January 27, 2022, 2:34 PM
To: "Rep.Brandtjen@legis.wi.gov" <Rep.Brandtjen@legis.wi.gov>
Subject: DECERTIFY

Well another email with no response from my Rep in Menomonee Falls.You know you started this whole fraudulent election in 2020 that we all know happened and because of it our country has turned to SHIT!! We are a RED state!! Now we demand you back Rep Ranthum in getting our 10 electoral votes back and get the dementia nursing home patient the hell out of there.Our eyes are on all reps and senators in this state to have a backbone and do the right thing.Now I appreciate what you did 6 months ago,but now it's peddle to the metal and do your job!! Wisconsinites aren't playing this game anymore!!!

Thank you Nicole Korol~Koback 414~803~1627
W179N8643 Village Ct
Menomonee Falls wi 53051

Sent from my iPhone

AMERICAN OVERSIGHT

From: Jack Prodigy <jlat89@prodigy.net>
Sent: Monday, January 31, 2022, 3:08 PM
To: Rep.Ramthun@legis.wisconsin.gov
Cc: Rep.Brandtjen@legis.wisconsin.gov
Subject: Drop Box Ruling and US Supreme

Good afternoon,

RE: Latest WI ruling on drop boxes going against state law.

Is there a way to file an emergency filing with the US Supreme Court saying the WI State Supreme Court is out of control by ignoring State Election Law and the US Supreme court should step in on the drop box ruling?

Cheers,

John Latimer
Walworth WI 53184

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STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
Tony Evers, Governor
Kathy Blumenfeld, Secretary
Anne L. Hanson, Chief Legal Counsel

SENT VIA EMAIL

January 24, 2022

Melodie Duesterbeck
Office of Representative Janel Brandtjen
Melodie.Duesterbeck@legis.wisconsin.gov

Dear Ms. Duesterbeck:

This is in response to your November 9, 2021, verbal public records request for the following information related to the Wisconsin Elections Commission: An updated organizational chart, copies of job descriptions, and a list of IT programmers for the last 10 years or since the Commission's inception. The attached records are provided in response to your request.

With regard to job descriptions, we interpret this part of your request to be for job descriptions of current staff. We included position descriptions for current permanent and project staff and excluded limited term employees. Please note that position descriptions are not required for unclassified positions, including the Administrator and Assistant Administrator, and therefore we have no responsive records for these individuals.

With regard to IT programmers, the Commission has never employed an IT programmer. TAPFIN was the state's IT VMS company from the time the Commission was founded in 2016, until Knowledge Services replaced TAPFIN effective July 1, 2021. The Excel file titled "TAPFIN Program Transition Records" contains the names of IT contractors at the Commission under the TAPFIN contract (505ENT-M12-SERVICESIT-01). The Excel file titled "Knowledge Services – Q1 FY 2022" contains the names of IT contractors at the Commission under the Knowledge Services contract (505ENT-M21-SERVICESIT-01).

If we misinterpreted your request or you are looking for additional records, please let us know.

Sincerely,

Nicole M. Rute

Nicole M. Rute
Legal Counsel

AMERICAN OVERSIGHT

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
Tony Evers, Governor
Kathy Blumenfeld, Secretary
Anne L. Hanson, Chief Legal Counsel

SENT VIA EMAIL

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Sincerely,

Nicole M. Rute

Nicole M. Rute
Legal Counsel

AMERICAN OVERSIGHT

From: Tina Stricklin <tina@amweisslaw.com>
Sent: Monday, January 31, 2022, 4:32 PM
To: "Rep.Brandtjen@legis.wisconsin.gov" <Rep.Brandtjen@legis.wisconsin.gov>
Subject: Election

Please sign the petition to audit. 2020 must be fixed. The America people expect this of the elected officials. Many people have died for these rights. We will not allow a select few corrupt politicians make this decision for us. Stand against fraud. We will not let this go. It must be fixed.

Tina Stricklin
Paralegal/Foreclosure Dept.
The Law Office of Arnold Weiss
208 Adams Avenue
Memphis, TN 38103
(901) 526-8296
tina@amweisslaw.com

AMERICAN OVERSIGHT

From: "Rep.Steineke" <Rep.Steineke@legis.wisconsin.gov>
Sent: Thursday, January 20, 2022, 2:43 PM
To: Undisclosed recipients:;
Subject: For Immediate Release: Statement from Assembly GOP Leadership on Reallocation of Tim Ramthun's staffer
Attachments: ASM GOP Statement.pdf

WISCONSIN LEGISLATURE

P.O. Box 7882 • Madison, WI 53707-7882

FOR IMMEDIATE RELEASE
CONTACT:

Majority Leader Jim Steineke: (608) 266-2401
Assistant Majority Leader Kevin Petersen: (608) 266-3794
Caucus Vice-Chair: Cindi Duchow (608) 266-3007
Caucus Sargent at Arms Sam Kerkman: (608) 266-2530
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JFC member Tony Kurtz: (608) 266-8531
JFC member Shannon Zimmerman: (608) 266-1526
Speaker Pro-Tempore Tyler August: (608) 266-1190
Caucus Chairman Tyler Vorpagel: (608) 266-8530
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JFC Co-Chair Mark Born: (608) 266-2540
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JFC member Jessie Rodriguez: (608) 266-0610

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"The word "misinformation" is too often used in today's political discourse as a way to completely discount your opponent's position. However, adhering to the true sense of the word, Rep. Ramthun and his staffer are spreading misinformation.

"Speaker Vos has never worked with Hillary Clinton's attorney to authorize drop boxes across the country. His involvement in NCSL did not involve anything having to do with drop boxes. In fact, Rep. Ramthun himself has sponsored legislation that would allow for a ballot to be returned to a drop box.

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“With the exception of one person, credible attorneys everywhere have come up with the same legal theory: We do not have the authority to decertify the 2020 election. Working with the Trump Campaign, all of us worked to stop Madison’s illegal “Democracy in the Park” ballot harvesting operation.

“We support Speaker Vos’ actions. No matter how much Rep. Ramthun and his staffer believe what they are saying is true, it does not make it so. Sending out communications full of lies is doing disservice to all voters. With so much information to parse through on the internet and in traditional media, we all must do a better job of listening and communicating.”

###

AMERICAN OVERSIGHT

From: christa lee ruth brynwood <cinnamonsocal@gmail.com>
Sent: Monday, January 31, 2022, 4:07 PM
To: Sen.Ballweg@legis.wisconsin.gov; Sen.Bernier@legis.wisconsin.gov; Sen.Bradley@legis.wisconsin.gov; Sen.Cowles@legis.wisconsin.gov; Sen.Darling@legis.wisconsin.gov; Sen.Felzkowski@legis.wisconsin.gov; Sen.Feyen@legis.wi.gov; Sen.Jacque@legis.wisconsin.gov; Sen.Jagler@legis.wisconsin.gov; Sen.Kapenga@legis.wisconsin.gov; "Sen.Kooyenga" <Sen.Kooyenga@legis.wisconsin.gov>; Sen.LeMahieu@legis.wisconsin.gov; Sen.Marklein@legis.wi.gov; Sen.Nass@legis.wisconsin.gov; Sen.Petrowski@legis.wisconsin.gov; Sen.Roth@legis.wisconsin.gov; Sen.Stafsholt@legis.wisconsin.gov; "Sen.Stroebel" <Sen.Stroebel@legis.wisconsin.gov>; Sen.Testin@legis.wisconsin.gov; "Sen.Wanggaard" <Sen.Wanggaard@legis.wisconsin.gov>; Sen.Wimberger@legis.wisconsin.gov; Sen.Wirch@legis.wisconsin.gov; Rep.Allen@legis.wisconsin.gov; Rep.Armstrong@legis.wisconsin.gov; Rep.August@legis.wisconsin.gov; Rep.Behnke@legis.wisconsin.gov; Rep.Born@legis.wisconsin.gov; "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>; Rep.Rob.Brooks@legis.wisconsin.gov; Rep.Cabral-Guevara@legis.wisconsin.gov; "Rep.Callahan" <Rep.Callahan@legis.wisconsin.gov>; Rep.Dallman@legis.wisconsin.gov; Rep.Dittrich@legis.wisconsin.gov; Rep.Duchow@legis.wisconsin.gov; Rep.Edming@legis.wisconsin.gov; Rep.Gundrum@legis.wisconsin.gov; Rep.Horlacher@legis.wisconsin.gov; Rep.James@legis.wisconsin.gov; Rep.Katsma@legis.wisconsin.gov; Rep.Kerkman@legis.wisconsin.gov; Rep.Kitchens@legis.wisconsin.gov; Rep.Knodl@legis.wisconsin.gov; Rep.Krug@legis.wisconsin.gov; Rep.Kuglitsch@legis.wisconsin.gov; "Rep.Kurtz" <Rep.Kurtz@legis.wisconsin.gov>; Rep.Loudenbeck@legis.wisconsin.gov; Rep.Macco@legis.wisconsin.gov; Rep.Magnafici@legis.wisconsin.gov; Rep.Moses@legis.wisconsin.gov; Rep.Murphy@legis.wisconsin.gov; Rep.Mursau@legis.wisconsin.gov; Rep.Neylon@legis.wisconsin.gov; Rep.Novak@legis.wisconsin.gov; Rep.Oldenburg@legis.wisconsin.gov; Rep.Penterman@legis.wisconsin.gov; Rep.Petersen@legis.wisconsin.gov; "Rep.Petryk" <Rep.Petryk@legis.wisconsin.gov>; Rep.Plumer@legis.wisconsin.gov; Rep.Pronschinske@legis.wisconsin.gov; Rep.Ramthun@legis.wisconsin.gov; Rep.Rodriguez@legis.wisconsin.gov; Rep.Rozar@legis.wisconsin.gov; Rep.Sanfelippo@legis.wisconsin.gov; "Rep.Schraa" <Rep.Schraa@legis.wisconsin.gov>; Rep.Skowronski@legis.wisconsin.gov; Rep.Snyder@legis.wisconsin.gov; Rep.Sortwell@legis.wisconsin.gov; Rep.Spiros@legis.wisconsin.gov; Rep.Steffen@legis.wisconsin.gov; Rep.Steineke@legis.wisconsin.gov; Rep.Summerfield@legis.wisconsin.gov; Rep.Swearingen@legis.wisconsin.gov; Rep.Tauchen@legis.wisconsin.gov; Rep.Thiesfeldt@legis.wisconsin.gov; "Rep.Tittl" <Rep.Tittl@legis.wisconsin.gov>; Rep.Tranel@legis.wisconsin.gov; Rep.Tusler@legis.wisconsin.gov; Rep.VanderMeer@legis.wisconsin.gov; "Rep.Vorpagel" <Rep.Vorpagel@legis.wisconsin.gov>; "Rep.Vos" <Rep.Vos@legis.wisconsin.gov>; Rep.Wichgers@legis.wisconsin.gov; Rep.Wittke@legis.wisconsin.gov; Rep.Zimmerman@legis.wisconsin.gov
Subject: Fraud Vitiates Everything-SCOTUS

AMERICAN OVERSIGHT

Dear Wisconsin Legislators,
You have constantly heard from voters around the state regarding the stolen election of 2020. You have passed some great laws which all but one that was a small administrative rule were summarily vetoed by the governor. The voters of Wisconsin have had their voice, their votes, and their will stolen. We have been disenfranchised. You have sat on your hands and paid lip service to us with few exceptions.

The rulings from the Supreme Court of the United States are clear. Fraud vitiates everything. I understand that none of you are constitutional law attorneys that argue case law in front of the US Supreme Court. Additionally, your body has received some misleading and franklyill advice from your counsel.

Representative Ramthun has clearly laid out the legal arguments in his document. The SCOTUS decisions clearly lay out that fraud vitiates everything and that states do have that right to decertify. Support his efforts, his resolution, return his full time staff member to his office.

Fraud vitiates everything,
Christa Lee Brynwood
1821 Iowa Street
Oshkosh, WI 54902
619-733-1686

AMERICAN OVERSIGHT

WISCONSIN CIRCUIT COURT
BROWN COUNTY

Richard Carlstedt 1640 Dancing Dunes Dr. Green Bay, WI 54313 Sandra Duckett 2552 Wilder Court Green Bay, WI 54311 James Fitzgerald 1923 Treeland Green Bay, WI 54304 Thomas Sladek 2634 Sequoia Ln Green Bay, WI 54313 Lark Wartenberg 2478 Sunrise Ct. Green Bay, WI 54302 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

AMERICAN OVERSIGHT

Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 100 South Jefferson Street, Green Bay, WI 54301 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

AMERICAN OVERSIGHT

WISCONSIN CIRCUIT COURT
BROWN COUNTY

Richard Carlstedt 1640 Dancing Dunes Dr. Green Bay, WI 54313 Sandra Duckett 2552 Wilder Court Green Bay, WI 54311 James Fitzgerald 1923 Treeland Green Bay, WI 54304 Thomas Sladek 2634 Sequoia Ln Green Bay, WI 54313 Lark Wartenberg 2478 Sunrise Ct. Green Bay, WI 54302 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

AMERICAN OVERSIGHT

Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Green Bay for alleged violations of election laws regarding the City of Green Bay facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Green Bay. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Green Bay's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

AMERICAN OVERSIGHT

Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Richard Carlstedt is a Wisconsin elector residing at 1640 Dancing Dunes Dr., Green Bay, WI 54313.

2. Sandra Duckett is a Wisconsin elector residing at 2552 Wilder Court, Green Bay, WI 54311.

3. James Fitzgerald is a Wisconsin elector residing at 1923 Treeland, Green Bay, WI 54304.

4. Thomas Sladek is a Wisconsin elector residing at 2634 Sequoia Lane, Green Bay, WI 54313.

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5. Lark Wartenberg is a Wisconsin elector residing at 2478 Sunrise Ct., Green Bay, WI 54302.

The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Brown County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Green Bay, its Mayor Eric Genrich, its city official Celestine Jeffries and

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former city official Kris Teske, and the WEC Administrator, Megan Wolfe, WEC case number EL 21-24.

11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

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18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

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> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).*

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28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*
- Poll worker recruitment and training; *id., App. 991–992;* and
- Safe and efficient election-day administration; *id, App. 993–994*.

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31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;
- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;
- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;
- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and
- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example, Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

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Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision was directed at purely governmental functions: monetary appropriations and governmental decision-making.

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38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.

- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

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- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over

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the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that

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> cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658*.

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

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- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

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- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180.*

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303).*

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309.*

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310.*

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311.*

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Green Bay's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Green Bay may have resulted in benefit to Green Bay voters over

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those outside of Green Bay, and although voters within Green Bay may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 11.* This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Green Bay, to the disadvantage of others." *Exhibit A, WEC Decision at 11.* This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

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95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Carlstedt, et al. v. Wolfe*
Case No. EL 21-24

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated April 8, 2021, which you submitted to the Commission on behalf of your clients, Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Eric Genrich, Mayor of the City of Green Bay; Celestine Jeffreys, the former Chief of Staff for the Green Bay Mayor and current Clerk for the City of Green Bay; and Kris Teske, the former Clerk for the City of Green Bay. Complainants accompanied the Complaint with an Appendix of nearly 400 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Genrich and Jeffreys filed a joint Answer ("Answer") and supporting Affidavit of Vanessa R. Chavez, Respondent Teske filed a response, the City Attorney for the City of Green filed a separate Motion to Dismiss Respondent Teske, and Respondent Wolfe filed both a Response and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-29, 21-30, 21-31, and 21-33). Respondents Genrich and Jeffreys objected to the combined Memorandum of Law and Appendix by letter dated August 9, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

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On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Genrich and Jeffreys again objected to the Reply by letter dated August 24, 2021, arguing that the Reply incorporated new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Genrich and Jeffreys filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various responses, answers, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Green Bay, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Green Bay adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Green Bay's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶ 18. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 25, 28. The Complaint alleges that CTCL money was accepted by the City of Green Bay, the City of Racine, the City of Kenosha, the City of Milwaukee, and the City of Madison. Complaint, ¶¶ 25-26, 28. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 32.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Green Bay failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, p. 3. *See also* Complaint, ¶¶ 102-108. Complainants argue that the acceptance of the private grant funds led to "the ubiquitous involvement of private corporations in the Wisconsin 5 cities' election administration prior to, during and after the election," for which the City of Green Bay, Complainants assert, had no legal authority. Reply, pp. 3-5.

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Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 46 ("[W]ith the added private conditions on Green Bay's election process, the Green Bay Complainants were within a jurisdictional boundary that affected them as a demographic group."). *See also* Complaint ¶ 47 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 100. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 87.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Green Bay's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 4, 31.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Green Bay and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 32.

- Complainants request that the "Commission … issue an order declaring that Green Bay's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 32. *See also* Complaint, p. 4.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private

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EXHIBIT A

corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 32-33, 4.

- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 33, 4.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 4-5, 33.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Green Bay accepted and received the CTCL grant money.

Respondents Genrich and Jeffreys assert several defenses to the Complaint, including the following:

- "Complainants fail to point to any law which prohibits the City's acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated." Answer, p. 2. Respondents Genrich and Jeffreys argue that "[t]he Legislature has acknowledged that current law includes no such provision [prohibiting municipalities from using private grant funds] by its ongoing attempts to enact such a law." Answer, p. 2 (citing 2021 Wis. S.B. 207 and 2021 Wis. A.B. 173).

- "[T]he CTCL grants were issued to municipalities without regard to the partisan make-up of their electorates. In fact, the City was one of 218 municipalities in Wisconsin to receive grant funds from CTCL." Answer, p. 3. Complainants do not contest this fact, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, pp. 7-9.

- "The Complaint is not timely." Answer, p. 4. *See also* Answer, pp. 5-14.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 4. *See also* Answer, pp. 14-16.

- "Complainants seek to have the Commission do administratively that which is the sole purview of the legislature: craft new election law." Answer, p. 4. *See also* Answer, pp. 22-23; Sur-Reply, p. 10 ("Complainants['] … true goal … is to have the Commission go beyond its legislatively-created authority to investigate election law violations, and instead create a policy that will apply to future elections. The Commission is an administrative,

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not legislative, body. The appropriate forum for Complainants' requested policy changes in therefore the legislature, not the Commission.").

The City Attorney for the City of Green Bay further argues that Respondents Genrich, Jeffreys, and Teske are not proper parties to the Complaint. This argument is presented as follows: "[A]ll of Complainants' legal arguments center around the acceptance of the CTCL grant funds and approval of how those funds were to be used. Neither the Mayor, his Chief of Staff, nor the City Clerk, in any of their professional capacities, had authority to accept the grant. The Common Council took that action. The named Respondents are not synonymous with the entire City government; they have specific roles within it, and those roles do not include authority to accept the CTCL grant funds." Answer, p. 15. *See also* Motion to Dismiss Respondent Teske.

In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Response, p. 51. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Response, p. 52.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Response, p. 56. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 100), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and

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even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Green Bay's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Genrich, Jeffreys, and Teske committed a violation of law or abuse of discretion as a result of the City of Green Bay's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

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Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents (including Eric Genrich and Kris Teske, who are Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 13).

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The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 14).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 15. However, Complainants do not show that either the Elections Clause or the Electors Clause of the U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

As Respondents Genrich and Jeffreys note in their Response, two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Green Bay) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin

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> municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 106-107. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been

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applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual

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> Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Green Bay may have resulted in benefit to Green Bay voters over those outside of Green Bay, and although voters within Green Bay may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Green Bay. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Green Bay, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Green Bay. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil

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actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

First, although Complainants assert that Respondent Wolfe supported the City of Green Bay's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether the Mayor, Chief of Staff, and former City Clerk are even proper parties to an action that relates to grant money accepted by the Common Council of the City of Green Bay.

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Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 33. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Vanessa R. Chavez, Esq.
Lindsay J. Mather, Esq.
Thomas C. Bellavia, Esq.

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EXHIBIT A

Steven C. Kilpatrick, Esq.
Ms. Kris Teske

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EXHIBIT A

WISCONSIN CIRCUIT COURT
BROWN COUNTY

Richard Carlstedt 1640 Dancing Dunes Dr. Green Bay, WI 54313 Sandra Duckett 2552 Wilder Court Green Bay, WI 54311 James Fitzgerald 1923 Treeland Green Bay, WI 54304 Thomas Sladek 2634 Sequoia Ln Green Bay, WI 54313 Lark Wartenberg 2478 Sunrise Ct. Green Bay, WI 54302 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

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Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 100 South Jefferson Street, Green Bay, WI 54301 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WISCONSIN CIRCUIT COURT
BROWN COUNTY

Richard Carlstedt 1640 Dancing Dunes Dr. Green Bay, WI 54313 Sandra Duckett 2552 Wilder Court Green Bay, WI 54311 James Fitzgerald 1923 Treeland Green Bay, WI 54304 Thomas Sladek 2634 Sequoia Ln Green Bay, WI 54313 Lark Wartenberg 2478 Sunrise Ct. Green Bay, WI 54302 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

AMERICAN OVERSIGHT

Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Green Bay for alleged violations of election laws regarding the City of Green Bay facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Green Bay. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Green Bay's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

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Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Richard Carlstedt is a Wisconsin elector residing at 1640 Dancing Dunes Dr., Green Bay, WI 54313.

2. Sandra Duckett is a Wisconsin elector residing at 2552 Wilder Court, Green Bay, WI 54311.

3. James Fitzgerald is a Wisconsin elector residing at 1923 Treeland, Green Bay, WI 54304.

4. Thomas Sladek is a Wisconsin elector residing at 2634 Sequoia Lane, Green Bay, WI 54313.

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5. Lark Wartenberg is a Wisconsin elector residing at 2478 Sunrise Ct., Green Bay, WI 54302.

The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Brown County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Green Bay, its Mayor Eric Genrich, its city official Celestine Jeffries and

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former city official Kris Teske, and the WEC Administrator, Megan Wolfe, WEC case number EL 21-24.

11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

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18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

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> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).*

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28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*
- Poll worker recruitment and training; *id., App. 991–992;* and
- Safe and efficient election-day administration; *id, App. 993–994*.

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31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;

- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;

- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and

- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example, Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

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Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision was directed at purely governmental functions: monetary appropriations and governmental decision-making.

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38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.

- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

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- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over

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the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that

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> cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658*.

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

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- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

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- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180.*

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303).*

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309.*

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310.*

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311.*

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Green Bay's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Green Bay may have resulted in benefit to Green Bay voters over

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those outside of Green Bay, and although voters within Green Bay may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 11.* This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Green Bay, to the disadvantage of others." *Exhibit A, WEC Decision at 11.* This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

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95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WI-REP-22-0106-A-000171

DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Carlstedt, et al. v. Wolfe*
Case No. EL 21-24

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated April 8, 2021, which you submitted to the Commission on behalf of your clients, Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Eric Genrich, Mayor of the City of Green Bay; Celestine Jeffreys, the former Chief of Staff for the Green Bay Mayor and current Clerk for the City of Green Bay; and Kris Teske, the former Clerk for the City of Green Bay. Complainants accompanied the Complaint with an Appendix of nearly 400 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Genrich and Jeffreys filed a joint Answer ("Answer") and supporting Affidavit of Vanessa R. Chavez, Respondent Teske filed a response, the City Attorney for the City of Green filed a separate Motion to Dismiss Respondent Teske, and Respondent Wolfe filed both a Response and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-29, 21-30, 21-31, and 21-33). Respondents Genrich and Jeffreys objected to the combined Memorandum of Law and Appendix by letter dated August 9, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

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WI-REP-22-0106-AP-00172
EXHIBIT A

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Genrich and Jeffreys again objected to the Reply by letter dated August 24, 2021, arguing that the Reply incorporated new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Genrich and Jeffreys filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various responses, answers, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Green Bay, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Green Bay adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Green Bay's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶ 18. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 25, 28. The Complaint alleges that CTCL money was accepted by the City of Green Bay, the City of Racine, the City of Kenosha, the City of Milwaukee, and the City of Madison. Complaint, ¶¶ 25-26, 28. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 32.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Green Bay failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, p. 3. *See also* Complaint, ¶¶ 102-108. Complainants argue that the acceptance of the private grant funds led to "the ubiquitous involvement of private corporations in the Wisconsin 5 cities' election administration prior to, during and after the election," for which the City of Green Bay, Complainants assert, had no legal authority. Reply, pp. 3-5.

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Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 46 ("[W]ith the added private conditions on Green Bay's election process, the Green Bay Complainants were within a jurisdictional boundary that affected them as a demographic group."). *See also* Complaint ¶ 47 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 100. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 87.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Green Bay's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 4, 31.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Green Bay and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 32.

- Complainants request that the "Commission … issue an order declaring that Green Bay's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 32. *See also* Complaint, p. 4.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private

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corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 32-33, 4.

- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 33, 4.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 4-5, 33.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Green Bay accepted and received the CTCL grant money.

Respondents Genrich and Jeffreys assert several defenses to the Complaint, including the following:

- "Complainants fail to point to any law which prohibits the City's acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated." Answer, p. 2. Respondents Genrich and Jeffreys argue that "[t]he Legislature has acknowledged that current law includes no such provision [prohibiting municipalities from using private grant funds] by its ongoing attempts to enact such a law." Answer, p. 2 (citing 2021 Wis. S.B. 207 and 2021 Wis. A.B. 173).

- "[T]he CTCL grants were issued to municipalities without regard to the partisan make-up of their electorates. In fact, the City was one of 218 municipalities in Wisconsin to receive grant funds from CTCL." Answer, p. 3. Complainants do not contest this fact, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, pp. 7-9.

- "The Complaint is not timely." Answer, p. 4. *See also* Answer, pp. 5-14.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 4. *See also* Answer, pp. 14-16.

- "Complainants seek to have the Commission do administratively that which is the sole purview of the legislature: craft new election law." Answer, p. 4. *See also* Answer, pp. 22-23; Sur-Reply, p. 10 ("Complainants['] … true goal … is to have the Commission go beyond its legislatively-created authority to investigate election law violations, and instead create a policy that will apply to future elections. The Commission is an administrative,

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not legislative, body. The appropriate forum for Complainants' requested policy changes in therefore the legislature, not the Commission.").

The City Attorney for the City of Green Bay further argues that Respondents Genrich, Jeffreys, and Teske are not proper parties to the Complaint. This argument is presented as follows: "[A]ll of Complainants' legal arguments center around the acceptance of the CTCL grant funds and approval of how those funds were to be used. Neither the Mayor, his Chief of Staff, nor the City Clerk, in any of their professional capacities, had authority to accept the grant. The Common Council took that action. The named Respondents are not synonymous with the entire City government; they have specific roles within it, and those roles do not include authority to accept the CTCL grant funds." Answer, p. 15. *See also* Motion to Dismiss Respondent Teske.

In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Response, p. 51. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Response, p. 52.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Response, p. 56. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 100), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and

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even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Green Bay's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Genrich, Jeffreys, and Teske committed a violation of law or abuse of discretion as a result of the City of Green Bay's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

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EXHIBIT A

Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents (including Eric Genrich and Kris Teske, who are Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 13).

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The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 14).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 15. However, Complainants do not show that either the Elections Clause or the Electors Clause of the U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

As Respondents Genrich and Jeffreys note in their Response, two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Green Bay) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin

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> municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 106-107. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been

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applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual

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> Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Green Bay may have resulted in benefit to Green Bay voters over those outside of Green Bay, and although voters within Green Bay may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Green Bay. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Green Bay, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Green Bay. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil

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actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

First, although Complainants assert that Respondent Wolfe supported the City of Green Bay's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether the Mayor, Chief of Staff, and former City Clerk are even proper parties to an action that relates to grant money accepted by the Common Council of the City of Green Bay.

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Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 33. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Vanessa R. Chavez, Esq.
Lindsay J. Mather, Esq.
Thomas C. Bellavia, Esq.

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Steven C. Kilpatrick, Esq.
Ms. Kris Teske

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EXHIBIT A

From: WisconsinEye Morning Minute <press@wiseye.org>
Sent: Tuesday, December 14, 2021, 9:00 AM
To: Janel <rep.brandtjen@legis.wisconsin.gov>
Subject: Growing Threats to Election Professionals in Wisconsin

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Growing Threats to Election Professionals in Wisconsin

As reported by WisPolitics.com, Sen. Kathy Bernier (R-Chippewa Falls) alongside national election experts said former Supreme Court Justice Michael Gableman needs to wrap up his investigation sooner than later to preserve election confidence and Republicans' chances of winning in the future.

In a Capitol panel discussion alongside Dem and GOP attorneys she said claims of widespread fraud by those who don't know how elections work are to

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blame for diminishing voter confidence, not election workers.

She also slammed some of her Republican colleagues for playing political games to gain traction with their voter base rather than working to enact good policy.

"This is a charade," she said. *"There's a simple explanation for almost every single thing that people accuse election officials of doing."*

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From: "Lieberman, Marc E." <MLP@cbsnews.com>
Sent: Monday, January 31, 2022, 11:32 AM
To: "'Rep.Brandtjen@legis.wisconsin.gov'" <Rep.Brandtjen@legis.wisconsin.gov>
Subject: Inquiry from 60 Minutes

Representative Brandtjen:

I am a producer at 60 Minutes with questions about the investigation into the 2020 election that you are leading as chair of the Assembly Committee on Campaigns and Elections. Please let me know if we can arrange a time to connect.

Best regards,
Marc Lieberman

Marc Lieberman | Producer | 60 Minutes | 310-995-0230 | mlp@viacomcbs.com

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WISCONSIN CIRCUIT COURT
KENOSHA COUNTY

Brian Thomas 5122 23rd Place Kenosha, WI 53144 Tamara Weber 5122 23rd Place Kenosha, WI 53144 Matthew Augustine 4306 31st Ave Kenosha, WI 53144 Kevin Mathewson 6503 103rd Ave Kenosha, WI 53142 Mary Magdalen Moser 2106 73rd Street Kenosha, Wi 53143 Pamela Mundling 7327 11th Avenue Kenosha WI 53143 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

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THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 912 56th St, Kenosha, WI 53140 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WISCONSIN CIRCUIT COURT
KENOSHA COUNTY

Brian Thomas 5122 23rd Place Kenosha, WI 53144 Tamara Weber 5122 23rd Place Kenosha, WI 53144 Matthew Augustine 4306 31st Ave Kenosha, WI 53144 Kevin Mathewson 6503 103rd Ave Kenosha, WI 53142 Mary Magdalen Moser 2106 73rd Street Kenosha, Wi 53143 Pamela Mundling 7327 11th Avenue Kenosha WI 53143 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

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Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Kenosha for alleged violations of election laws regarding the City of Kenosha facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Kenosha. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Kenosha's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

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Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24);

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Brian Thomas is a Wisconsin elector residing at 5122 23rd Place, Kenosha, WI 53144.

2. Tamara Weber is a Wisconsin elector residing at 5122 23rd Place, Kenosha, WI 53144.

3. Matthew Augustine is a Wisconsin elector residing at 4306 31st Avenue, Kenosha, WI 53144.

4. Kevin Mathewson is a Wisconsin elector residing at 6503 103rd Avenue, Kenosha, WI 53142.

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5. Mary Magdalen Moser is a Wisconsin elector residing at 2106 73rd Street, Kenosha, WI 53143.

6. Pamela Mundling is a Wisconsin elector residing at 7327 11th Avenue, Kenosha WI 53143.

The Defendant:

7. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

8. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

9. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Kenosha County, Wisconsin.

Nature of the Action

10. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

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11. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Kenosha Mayor Hon. John M. Antaramian, the clerk for the City of Kenosha, Matt Krauter, and the WEC Administrator, Megan Wolfe, WEC case number EL 21-30.

12. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

13. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

14. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

15. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

16. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

17. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

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18. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

19. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

20. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

21. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

22. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

23. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

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24. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

25. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

26. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

27. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

28. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint*

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Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).

29. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

30. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

31. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*

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- Poll worker recruitment and training; *id., App. 991–992;* and

- Safe and efficient election-day administration; *id, App. 993–994*.

32. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;

- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;

- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and

- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

33. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example,

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Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

34. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

35. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

36. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

37. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

38. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision

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was directed at purely governmental functions: monetary appropriations and governmental decision-making.

39. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

40. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

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- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

41. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the

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primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

42. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of

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returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

43. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

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44. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

45. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

46. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

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- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303)*.

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

47. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

48. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

49. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

50. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

51. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

52. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

53. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

54. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

55. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

56. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

57. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

58. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

59. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

60. The WEC made no findings of fact.

61. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Kenosha's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

62. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

63. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

64. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

65. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

66. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Kenosha may have resulted in benefit to Kenosha voters over

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those outside of Kenosha, and although voters within Kenosha may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 10*. This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

67. Therefore, again, this Court may rely upon the *entire* record for this appeal.

68. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Kenosha, to the disadvantage of others." *Exhibit A, WEC Decision at 11*. This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

69. Therefore, again, this Court may rely upon the *entire* record for this appeal.

70. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

71. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

72. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

73. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

74. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

75. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

76. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

77. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

78. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

79. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

80. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

81. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

82. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

83. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

84. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

85. CTCL directed its partners to local municipalities to manage or participate in the election process.

86. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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87. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

88. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

89. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

90. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

91. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

92. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

93. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

94. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

95. Wisconsin chapter 12 falls within the authority of the WEC.

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96. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

97. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

98. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

99. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

100. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

101. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

102. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

103. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

104. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

105. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

106. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

107. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

108. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

109. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

110. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

111. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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112. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

113. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

114. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

115. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

116. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

117. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

118. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

119. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

120. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

121. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

122. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

123. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

124. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

125. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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126. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

127. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

128. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

129. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

130. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

131. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

132. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

133. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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134. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

135. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

136. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

137. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

138. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

139. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

140. The Respondents and their City violated the Elections Clause and Electors Clause.

141. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

142. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

143. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WI-REP-22-0106-A-000229

DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Thomas, et al. v. Wolfe*
Case No. EL 21-30

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated May 1, 2021, which you submitted to the Commission on behalf of your clients, Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, and Pamela Mundling (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; John M. Antaramian, Mayor of the City of Kenosha; and Matt Krauter, Clerk for the City of Kenosha. Complainants accompanied the Complaint with an Appendix of nearly 800 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Antaramian and Krauter filed a joint Answer ("Answer"), a Motion to Dismiss, and Affidavits from Respondent Krauter, Carol Stancato, and Bryan A. Charbogian. Also on June 15, 2021, Respondent Wolfe filed both a Response ("Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-29, 21-31, and 21-33). Respondents Antaramian and Krauter objected to the combined Memorandum of Law and Appendix by letter dated August 5, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

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WI-REP-22-0106-AP00230
EXHIBIT A

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Antaramian and Krauter again objected to the Reply by letter dated August 24, 2021, arguing among other things that the Reply incorporated new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Antaramian and Krauter filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various answers, responses, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Kenosha, Wisconsin. Complaint, ¶¶ 1-6. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Kenosha adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Kenosha's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 18, 22, 38. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 32, 36. The Complaint alleges that CTCL money was accepted by the City of Kenosha, the City of Racine, the City of Green Bay, the City of Milwaukee, and the City of Madison. Complaint, ¶¶ 22, 34-35, 38. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 39.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Kenosha failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, pp. 2-3.

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 54 ("[W]ith the added private conditions on Kenosha's election process, the Kenosha Complainants were within a jurisdictional

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boundary that affected them as a demographic group."). *See also* Complaint ¶ 55 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 79. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 87.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Kenosha's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 4, 30.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Kenosha and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 31.

- Complainants request that the "Commission … issue an order declaring that Kenosha's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 31.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 31-32. *See also* Complaint, p. 5.

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- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 32.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 32.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Kenosha accepted and received the CTCL grant money.

Respondents Antaramian and Krauter assert several defenses to the Complaint, including the following:

- "[T]he Complaint fails to point the WEC to any statute that actually prohibits municipalities from accepting grant money for elections." Answer, p. 16. *See also* Answer, p. 18.

- "[T]he City [of Kenosha] was one of 218 municipalities in Wisconsin to receive grant funds from CTCL ("WI-218"). Yet, the Complainants have chosen to commence election complaints against only certain municipalities that they perceive as having electorates with a different political preference than their own…." Answer, p. 4. *See also* Answer, p. 30 ("[E]very eligible municipality that applied for the grant was approved, regardless of political affiliation. Indeed, many Wisconsin municipalities with strong histories of voting for conservative candidates were among the grant recipients…."). Complainants do not contest the fact more than 200 Wisconsin municipalities received CTCL grants, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "The Complaint is Untimely." Answer, p. 5. *See also* Answer, pp. 5-14.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 4. *See also* Answer, pp. 14-17.

- "[T]he Mayor [Respondent Antaramian] is not a proper party to this Complaint" because he is not an election official. Answer, p. 15.

- "Whether changes to existing laws should be made in order to prevent municipal acceptance of private grant funds is a question most appropriately decided in the legislature, as it is not only far beyond the scope of a complaint under Section 5.06, it also exceeds the Commission's authority." Answer, p. 34.

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In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 44.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 46. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 79), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

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EXHIBIT A

The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Kenosha's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Antaramian and Krauter committed a violation of law or abuse of discretion as a result of the City of Kenosha's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents

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(including John Antaramian, who is one of the Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 13).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 14).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 15. However, Complainants do not show that either the Elections Clause or the Electors Clause of the

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U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

Two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Kenosha) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the

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Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 85-86. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The

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court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Kenosha may have resulted in benefit to Kenosha voters over those outside of Kenosha, and although voters within Kenosha may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people

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with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Kenosha. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Kenosha, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Kenosha. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 49. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

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First, although Complainants assert that Respondent Wolfe supported the City of Kenosha's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether the Mayor is an election official.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 32. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking

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action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Bryan A. Charbogian, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

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WISCONSIN CIRCUIT COURT
KENOSHA COUNTY

Brian Thomas 5122 23rd Place Kenosha, WI 53144 Tamara Weber 5122 23rd Place Kenosha, WI 53144 Matthew Augustine 4306 31st Ave Kenosha, WI 53144 Kevin Mathewson 6503 103rd Ave Kenosha, WI 53142 Mary Magdalen Moser 2106 73rd Street Kenosha, Wi 53143 Pamela Mundling 7327 11th Avenue Kenosha WI 53143 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

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THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 912 56th St, Kenosha, WI 53140 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WISCONSIN CIRCUIT COURT
KENOSHA COUNTY

Brian Thomas 5122 23rd Place Kenosha, WI 53144 Tamara Weber 5122 23rd Place Kenosha, WI 53144 Matthew Augustine 4306 31st Ave Kenosha, WI 53144 Kevin Mathewson 6503 103rd Ave Kenosha, WI 53142 Mary Magdalen Moser 2106 73rd Street Kenosha, Wi 53143 Pamela Mundling 7327 11th Avenue Kenosha WI 53143 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

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Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Kenosha for alleged violations of election laws regarding the City of Kenosha facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Kenosha. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Kenosha's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

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Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24);

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Brian Thomas is a Wisconsin elector residing at 5122 23rd Place, Kenosha, WI 53144.

2. Tamara Weber is a Wisconsin elector residing at 5122 23rd Place, Kenosha, WI 53144.

3. Matthew Augustine is a Wisconsin elector residing at 4306 31st Avenue, Kenosha, WI 53144.

4. Kevin Mathewson is a Wisconsin elector residing at 6503 103rd Avenue, Kenosha, WI 53142.

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5. Mary Magdalen Moser is a Wisconsin elector residing at 2106 73rd Street, Kenosha, WI 53143.

6. Pamela Mundling is a Wisconsin elector residing at 7327 11th Avenue, Kenosha WI 53143.

The Defendant:

7. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

8. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

9. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Kenosha County, Wisconsin.

Nature of the Action

10. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

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11. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Kenosha Mayor Hon. John M. Antaramian, the clerk for the City of Kenosha, Matt Krauter, and the WEC Administrator, Megan Wolfe, WEC case number EL 21-30.

12. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

13. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

14. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

15. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

16. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

17. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

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18. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

19. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

20. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

21. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

22. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

23. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

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24. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

25. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

26. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

27. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

28. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint*

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Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).

29. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

30. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

31. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*

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- Poll worker recruitment and training; *id., App. 991–992;* and

- Safe and efficient election-day administration; *id, App. 993–994*.

32. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;

- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;

- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and

- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

33. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example,

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Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

34. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

35. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

36. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

37. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

38. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision

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was directed at purely governmental functions: monetary appropriations and governmental decision-making.

39. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

40. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

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- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

41. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the

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primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

42. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of

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returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

43. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

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44. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

45. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

46. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

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- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303)*.

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

47. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

48. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

49. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

50. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

51. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

52. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

53. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

54. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

55. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

56. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

57. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

58. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

59. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

60. The WEC made no findings of fact.

61. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Kenosha's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

62. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

63. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

64. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

65. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

66. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Kenosha may have resulted in benefit to Kenosha voters over

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those outside of Kenosha, and although voters within Kenosha may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 10*. This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

67. Therefore, again, this Court may rely upon the *entire* record for this appeal.

68. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Kenosha, to the disadvantage of others." *Exhibit A, WEC Decision at 11*. This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

69. Therefore, again, this Court may rely upon the *entire* record for this appeal.

70. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

71. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

72. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

73. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

74. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

75. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

76. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

77. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

78. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

79. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

80. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

81. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

82. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

83. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

84. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

85. CTCL directed its partners to local municipalities to manage or participate in the election process.

86. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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87. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

88. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

89. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

90. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

91. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

92. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

93. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

94. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

95. Wisconsin chapter 12 falls within the authority of the WEC.

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96. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

97. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

98. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

99. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

100. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

101. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

102. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

103. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

104. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

105. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

106. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

107. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

108. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

109. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

110. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

111. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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112. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

113. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

114. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

115. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

116. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

117. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

118. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

119. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

120. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

121. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

122. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

123. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

124. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

125. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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126. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

127. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

128. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

129. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

130. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

131. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

132. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

133. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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134. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

135. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

136. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

137. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

138. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

139. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

140. The Respondents and their City violated the Elections Clause and Electors Clause.

141. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

142. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

143. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WI-REP-22-0106-A-000280

DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Thomas, et al. v. Wolfe*
Case No. EL 21-30

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated May 1, 2021, which you submitted to the Commission on behalf of your clients, Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, and Pamela Mundling (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; John M. Antaramian, Mayor of the City of Kenosha; and Matt Krauter, Clerk for the City of Kenosha. Complainants accompanied the Complaint with an Appendix of nearly 800 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Antaramian and Krauter filed a joint Answer ("Answer"), a Motion to Dismiss, and Affidavits from Respondent Krauter, Carol Stancato, and Bryan A. Charbogian. Also on June 15, 2021, Respondent Wolfe filed both a Response ("Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-29, 21-31, and 21-33). Respondents Antaramian and Krauter objected to the combined Memorandum of Law and Appendix by letter dated August 5, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

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WI-REP-22-0106-AP00281
EXHIBIT A

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Antaramian and Krauter again objected to the Reply by letter dated August 24, 2021, arguing among other things that the Reply incorporated new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Antaramian and Krauter filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various answers, responses, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Kenosha, Wisconsin. Complaint, ¶¶ 1-6. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Kenosha adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Kenosha's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 18, 22, 38. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 32, 36. The Complaint alleges that CTCL money was accepted by the City of Kenosha, the City of Racine, the City of Green Bay, the City of Milwaukee, and the City of Madison. Complaint, ¶¶ 22, 34-35, 38. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 39.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Kenosha failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, pp. 2-3.

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 54 ("[W]ith the added private conditions on Kenosha's election process, the Kenosha Complainants were within a jurisdictional

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boundary that affected them as a demographic group."). *See also* Complaint ¶ 55 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 79. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 87.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Kenosha's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 4, 30.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Kenosha and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 31.

- Complainants request that the "Commission … issue an order declaring that Kenosha's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 31.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 31-32. *See also* Complaint, p. 5.

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- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 32.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 32.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Kenosha accepted and received the CTCL grant money.

Respondents Antaramian and Krauter assert several defenses to the Complaint, including the following:

- "[T]he Complaint fails to point the WEC to any statute that actually prohibits municipalities from accepting grant money for elections." Answer, p. 16. *See also* Answer, p. 18.

- "[T]he City [of Kenosha] was one of 218 municipalities in Wisconsin to receive grant funds from CTCL ("WI-218"). Yet, the Complainants have chosen to commence election complaints against only certain municipalities that they perceive as having electorates with a different political preference than their own…." Answer, p. 4. *See also* Answer, p. 30 ("[E]very eligible municipality that applied for the grant was approved, regardless of political affiliation. Indeed, many Wisconsin municipalities with strong histories of voting for conservative candidates were among the grant recipients…."). Complainants do not contest the fact more than 200 Wisconsin municipalities received CTCL grants, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "The Complaint is Untimely." Answer, p. 5. *See also* Answer, pp. 5-14.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 4. *See also* Answer, pp. 14-17.

- "[T]he Mayor [Respondent Antaramian] is not a proper party to this Complaint" because he is not an election official. Answer, p. 15.

- "Whether changes to existing laws should be made in order to prevent municipal acceptance of private grant funds is a question most appropriately decided in the legislature, as it is not only far beyond the scope of a complaint under Section 5.06, it also exceeds the Commission's authority." Answer, p. 34.

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In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 44.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 46. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 79), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

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The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Kenosha's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Antaramian and Krauter committed a violation of law or abuse of discretion as a result of the City of Kenosha's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents

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(including John Antaramian, who is one of the Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 13).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 14).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 15. However, Complainants do not show that either the Elections Clause or the Electors Clause of the

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U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

Two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Kenosha) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the

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Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 85-86. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The

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court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Kenosha may have resulted in benefit to Kenosha voters over those outside of Kenosha, and although voters within Kenosha may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people

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with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Kenosha. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Kenosha, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Kenosha. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 49. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

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EXHIBIT A

First, although Complainants assert that Respondent Wolfe supported the City of Kenosha's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether the Mayor is an election official.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 32. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking

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action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Bryan A. Charbogian, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

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Agency Name	Division Name	Bureau Name	Contracted Personnel Name	Contractor Title and Level (from the Rate Card)	Supplier Company Name	Engagement Start Date	Engagement End Date

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Wisconsin Elections Commission
212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

MEMORANDUM

DATE: April 2, 2021

TO: Legislative Audit Bureau (LAB)

FROM: Wisconsin Elections Commission (WEC)

Prepared by:
Robert Kehoe, Technology Director

SUBJECT: Data Request Dated March 11, 2021 (Voter Registrations)

1. **Purpose**. This memorandum provides an explanation of data files provided to the LAB via FTP site on or about April 2, 2021. The initial request, dated March 11, 2021, covered four data sets: (1) absentee ballots; (2) voter registrations; (3) death audits; and (4) felon audits. This memorandum addresses only voter registration data.

2. **Voter Registration Information**. The LAB asked for specific information about each individual who registered to vote between January 1, 2020 and November 3, 2020. That information is provided in a .csv file named:

LABAudit2021_VoterRegistrationHistory

Except where indicated in the table below, the data field name in the .csv file exactly matches the data requested by LAB.

Ref. #	Data Requested	File Data Field Name(s)	WEC Comments
1	"Application source (i.e., online, clerk's office, mail, etc.)"	Registration Source	See note a.
2	"Whether the individual's personally identifiable information was confirmed by DOT's data, was not confirmed, or no attempt was made to confirm it"	HAVA Check HAVA Check Reason	See note b.

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

Administrator
Meagan Wolfe

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WI-REP-22-0106-A-000296

3	"Whether clerks mailed letters to those whose personally identifiable information was not confirmed"	N/A	See note c.
4	"Whether the individual voted in the November 2020 General Election and, if so, whether they voted in-person or by absentee ballot"	Nov2020 Election Participation	

Note a. The "Registration Source" field indicates the registration source data that is either recorded automatically or manually documented by the clerk. Online voter registration is automatically recorded by the system. All other registration sources are recorded by the clerk and the clerk has discretion to choose the appropriate option. For example, a clerk who registers a voter while conducting in person absentee voting at the public library might choose to record the location as Registration Drive, Polling Place, Alternative Absentee Location, or possibly even Clerk's Office.

Registration source choices in the .csv file are:

- Clerk's Office
- Polling Place
- Online Registration (a/k/a OVR)
- Mail
- Fax
- Email
- Care Facility
- Registration Drive
- Alternative Absentee Location

WEC staff frequently see people attempting to re-register when they are already registered which can create a duplicate application. Sometimes the new registration is necessary (such as when a voter moves) but sometimes voters simply submit requests to 'make sure' they are registered. This often occurs whenever voter registration is publicized, either by jurisdictions, or by the press, or by civic groups. For example, voter 701130563 submitted a registration request four different times in 2020. When a duplicate registration is identified, it is either inactivated or merged with the existing voter record by the municipal clerk.

Note b. The .csv file contains two fields addressing attempts to match voter information with either Department of Transportation (DMV) data or Social Security Administration data. This

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process is called the "HAVA check" in reference to the Help America Vote Act that mandated its development. 52 U.S.C. §§ 210901-21145.

The first field, labeled "HAVA Check" indicates if there was a match, a non-match, or if the record is still pending review. Non-matches are not uncommon and require manual investigation to resolve. In most cases, non-matches are the result of minor variances in data entry. That is, the voter's name may be spelled somewhat differently, a nickname may be used (Bob instead of Robert), a suffix may be missing (Jr., Sr.) or a typo exists in the data. For example, voter #701145350 registered at the polling place on 8/11/2020. The clerk inadvertently recorded the voter's birthdate as 7/5/1990 instead of 7/15/1990, resulting in a non-match.

The second field, labeled "HAVA Check Reason" displays the response code received from the matching agency. Response codes differ between the Wisconsin Department of Transportation and the Social Security Administration. In some instances, an observer may note non-match entries with a code of "All Fields Match." This seemingly incongruent result can occur when the initial check is a non-match, and the clerk updates the voter records (usually correcting spelling or changing a date) to obtain a match.

Codes are as follows:

WI Department of Transportation Codes	Social Security Administration Codes
1-All Fields Match	S-Invalid Data Submitted
2-Name and DOB Do Not Match	T-Multiple Matches - All Dead
3-Name Does Not Match	V-Multiple Matches - At Least One Alive and One Dead
4-DOB Does Not Match	W-Multiple Matches - All Alive
5-No Record of DL Number	X-Single Match – Alive
6-Invalid Format of DL Number	Y-Single Match – Dead
7-Invalid Name	Z-No Matches Found
8-Invalid DOB	

Note also that there is also an *entirely separate* DMV check process that occurs during online voter registration (OVR). Unlike the nightly HAVA check process, the OVR DMV check occurs nearly instantly and verifies that a voter's name, date of birth, license number, and jurisdiction match DMV records. If the OVR DMV check does not match, the voter is not permitted to register online. Therefore, all records with a source of "Online Registration" passed the OVR DMV check with a 100% match.

The HAVA Check and HAVA Check Reason fields are associated with the *voter record* and not the registration transaction. This means that voters with multiple registration

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attempts will only show the most recent HAVA Check Reason. In some circumstances, this can produce unusual results. For example, a voter who registered online will go through the OVR DMV check process and they must obtain a 100% match in order to register. If the same voter subsequently registers in person at a new location, any change in their record (particularly typos) could cause the HAVA DMV check to return a non-match. In this case, the attached .csv file will show a non-match for *all records associated with the voter* because a non-match was the most recent result.

Voter #701145350 (discussed above) is again a good example. The voter registered online on 3/15/2020 with a correct date of birth matching DMV records. The voter was therefore in a "Match" status. When the voter moved and registered in person with a new clerk, the clerk mistyped the date of birth, resulting in a non-match. This changed the voter's HAVA Check status from "Match" (with the correct DOB) to "Non-Match" (with an incorrect DOB).

Note c. This information is not reported to the WEC. The statewide voter registration system includes a letter generation tool for clerks that allows them to easily create HAVA Check Non-Match letters. The tool simply creates a word or PDF file that the clerk must print, sign, and mail. Use of the tool is optional and clerks may instead use their own letter or postcard formats if desired.

3. **Summary Data.** As noted above, the HAVA check process originates with the Help America Vote Act of 2002. Section 303 of HAVA, titled "Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail," establishes the requirement to conduct HAVA Checks. That section mandates the creation of a computerized list containing the name and registration information of every legally registered voter in the State, which shall serve as the official voter registration list for federal and state elections. HAVA § 303(a)(1)(A) codified at 52 U.S.C. § 21083(a)(1)(A). HAVA requires that individuals, upon registering to vote, provide a current driver license number, if they have one, or last four digits of their Social Security Number, for those who do not. Voters who have neither a driver license nor a Social Security Number are assigned a separate identification number for purposes of the official registration list. HAVA § 303(a)(5)(A) codified at 52 U.S.C. § 21083(a)(5)(A).

The statewide voter registration system is programmed to perform HAVA checks with both the Wisconsin Department of Transportation and the Social Security Administration. These checks return one of the codes listed in Note B above and non-matches are flagged by the system for clerk review. Clerks are asked to review non-matches to ensure a data entry error was not responsible for the non-match result. Full instructions for the DMV check process can be found in Chapter 2, Section 2.5 of the WisVote User Manual.

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For the treatment of non-match records in the database, the WEC observes procedures established after litigation involving its predecessor agency, the Government Accountability Board (GAB). In J.B. Van Hollen et. al v. Government Accountability Board et. al, Dane County Court Case 08CV4085, the judge found that none of the provisions of HAVA affect the fundamental voter eligibility qualifications. HAVA mandates action by States with regard to voting systems, accessibility for individuals with disabilities, and establishment and maintenance of the official statewide voter registration list. HAVA establishes no additional voter qualifications, except in the limited case of a first-time voter who registered by mail and who must either provide a photo identification or current proof of residence, or else must vote by provisional ballot. A successful HAVA match eliminates this additional requirement.

The court further determined that HAVA does not mandate the imposition of a consequence or penalty for a voter whose voter registration data does not precisely match information contained in the DOT or SSA databases. The HAVA match process also does not alter the voter eligibility requirements established by state law. *Order in Dane County Court Case 08CV4085 at 10*. The judge emphasized that HAVA must be read in the context of the Voting Rights Act of 1965 and its prohibition on official government action denying the right to vote "because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under state law to vote in such election." *Court Order at 12*.

The court ultimately concluded that HAVA Checks are intended to assist in improving the quality of voter data in the State's official voter registration list on an ongoing basis, not to convert an otherwise qualified voter into an ineligible voter. By enacting and implementing HAVA, neither Congress nor the Legislature has altered the longstanding basic voter eligibility requirements, namely U.S. citizenship, age, and residency, along with an absence of disqualifying factors such as a felony conviction or a finding of incompetency. The GAB adopted the court's findings. *Wisconsin Government Accountability Board meeting minutes, Item F, January 15, 2009.*

Not all records will show a HAVA check performed. There are a variety of reasons a voter record with registration history from 2020 would not have a HAVA check completed. For example:

- Military voters - no DL or SSN is required (exempt from voter registration) - Wis. Stat. § 6.22(3)
- Presidential Only voters (new residents) - Wis. Stat. § 6.15
- Pre-WisVote Voter record where the voter re-registered without using MyVote – if no updates were made to Name, DL, SSN, or DOB which triggers the HAVA check (converted records from systems prior to statewide voter registration)
- Incomplete EDR (election day registration) - DL and SSN not required, voter record never active

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Finally, it should be noted that the HAVA check process is but one tool among many in place to improve the quality and accuracy of voter data. Online registrants – nearly half of all registrations – must obtain a perfect match with DMV data through the OVR DMV check process described in Note B above. All other registrants must provide a Proof of Residence Document and nearly all appear in person before the clerk or the clerk's authorized representative. Voters who register in person during in-person absentee voting (IPAV) or on election day (EDR) – over 40% of all registrations – must also present a photo ID in order to obtain a ballot.

The tables below summarize the data contained in the .csv file. If LAB staff detect any differences from the figures listed below, please contact the WEC to review the discrepancy.

Registration Source	Count
Online Registration	500,876
Polling Place	282,547
Clerk's Office	136,470
Mail	61,716
Alternative Absentee Location	14,411
Care Facility	5,634
Registration Drive	3,335
Email	21
Fax	4

Registration Month-Year	Count
Jan-20	26,762
Feb-20	45,379
Mar-20	110,177
Apr-20	50,316
May-20	11,972
Jun-20	19,518
Jul-20	44,255
Aug-20	90,490
Sep-20	193,049
Oct-20	215,461
Nov-20	197,635

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DMV Check Status	Count
Match	943,624
Non-Match	47,335
Pending	95
N/A	13,960

Nov2020 Election Participation	Count
Absentee	502,027
At Polls	424,178
None	78,809

4. **Point of Contact.** LAB staff may direct any questions about this data file or memorandum to Robert Kehoe, WEC Technology Director, at 608-261-2019 or robert.kehoe@wi.gov.

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Wisconsin Elections Commission
212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

MEMORANDUM

DATE: April 2, 2021

TO: Legislative Audit Bureau (LAB)

FROM: Wisconsin Elections Commission (WEC)

Prepared by:
Robert Kehoe, Technology Director

SUBJECT: Data Request Dated March 11, 2021 (Voter Registrations)

1. **Purpose**. This memorandum provides an explanation of data files provided to the LAB via FTP site on or about April 2, 2021. The initial request, dated March 11, 2021, covered four data sets: (1) absentee ballots; (2) voter registrations; (3) death audits; and (4) felon audits. This memorandum addresses only voter registration data.

2. **Voter Registration Information**. The LAB asked for specific information about each individual who registered to vote between January 1, 2020 and November 3, 2020. That information is provided in a .csv file named:

LABAudit2021_VoterRegistrationHistory

Except where indicated in the table below, the data field name in the .csv file exactly matches the data requested by LAB.

Ref. #	Data Requested	File Data Field Name(s)	WEC Comments
1	"Application source (i.e., online, clerk's office, mail, etc.)"	Registration Source	See note a.
2	"Whether the individual's personally identifiable information was confirmed by DOT's data, was not confirmed, or no attempt was made to confirm it"	HAVA Check HAVA Check Reason	See note b.

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

Administrator
Meagan Wolfe

AMERICAN OVERSIGHT

WI-REP-22-0106-A-000303

3	"Whether clerks mailed letters to those whose personally identifiable information was not confirmed"	N/A	See note c.
4	"Whether the individual voted in the November 2020 General Election and, if so, whether they voted in-person or by absentee ballot"	Nov2020 Election Participation	

Note a. The "Registration Source" field indicates the registration source data that is either recorded automatically or manually documented by the clerk. Online voter registration is automatically recorded by the system. All other registration sources are recorded by the clerk and the clerk has discretion to choose the appropriate option. For example, a clerk who registers a voter while conducting in person absentee voting at the public library might choose to record the location as Registration Drive, Polling Place, Alternative Absentee Location, or possibly even Clerk's Office.

Registration source choices in the .csv file are:

- Clerk's Office
- Polling Place
- Online Registration (a/k/a OVR)
- Mail
- Fax
- Email
- Care Facility
- Registration Drive
- Alternative Absentee Location

WEC staff frequently see people attempting to re-register when they are already registered which can create a duplicate application. Sometimes the new registration is necessary (such as when a voter moves) but sometimes voters simply submit requests to 'make sure' they are registered. This often occurs whenever voter registration is publicized, either by jurisdictions, or by the press, or by civic groups. For example, voter 701130563 submitted a registration request four different times in 2020. When a duplicate registration is identified, it is either inactivated or merged with the existing voter record by the municipal clerk.

Note b. The .csv file contains two fields addressing attempts to match voter information with either Department of Transportation (DMV) data or Social Security Administration data. This

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process is called the "HAVA check" in reference to the Help America Vote Act that mandated its development. 52 U.S.C. §§ 210901-21145.

The first field, labeled "HAVA Check" indicates if there was a match, a non-match, or if the record is still pending review. Non-matches are not uncommon and require manual investigation to resolve. In most cases, non-matches are the result of minor variances in data entry. That is, the voter's name may be spelled somewhat differently, a nickname may be used (Bob instead of Robert), a suffix may be missing (Jr., Sr.) or a typo exists in the data. For example, voter #701145350 registered at the polling place on 8/11/2020. The clerk inadvertently recorded the voter's birthdate as 7/5/1990 instead of 7/15/1990, resulting in a non-match.

The second field, labeled "HAVA Check Reason" displays the response code received from the matching agency. Response codes differ between the Wisconsin Department of Transportation and the Social Security Administration. In some instances, an observer may note non-match entries with a code of "All Fields Match." This seemingly incongruent result can occur when the initial check is a non-match, and the clerk updates the voter records (usually correcting spelling or changing a date) to obtain a match.

Codes are as follows:

WI Department of Transportation Codes	Social Security Administration Codes
1-All Fields Match	S-Invalid Data Submitted
2-Name and DOB Do Not Match	T-Multiple Matches - All Dead
3-Name Does Not Match	V-Multiple Matches - At Least One Alive and One Dead
4-DOB Does Not Match	W-Multiple Matches - All Alive
5-No Record of DL Number	X-Single Match – Alive
6-Invalid Format of DL Number	Y-Single Match – Dead
7-Invalid Name	Z-No Matches Found
8-Invalid DOB	

Note also that there is also an *entirely separate* DMV check process that occurs during online voter registration (OVR). Unlike the nightly HAVA check process, the OVR DMV check occurs nearly instantly and verifies that a voter's name, date of birth, license number, and jurisdiction match DMV records. If the OVR DMV check does not match, the voter is not permitted to register online. Therefore, all records with a source of "Online Registration" passed the OVR DMV check with a 100% match.

The HAVA Check and HAVA Check Reason fields are associated with the *voter record* and not the registration transaction. This means that voters with multiple registration

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attempts will only show the most recent HAVA Check Reason. In some circumstances, this can produce unusual results. For example, a voter who registered online will go through the OVR DMV check process and they must obtain a 100% match in order to register. If the same voter subsequently registers in person at a new location, any change in their record (particularly typos) could cause the HAVA DMV check to return a non-match. In this case, the attached .csv file will show a non-match for *all records associated with the voter* because a non-match was the most recent result.

Voter #701145350 (discussed above) is again a good example. The voter registered online on 3/15/2020 with a correct date of birth matching DMV records. The voter was therefore in a "Match" status. When the voter moved and registered in person with a new clerk, the clerk mistyped the date of birth, resulting in a non-match. This changed the voter's HAVA Check status from "Match" (with the correct DOB) to "Non-Match" (with an incorrect DOB).

Note c. This information is not reported to the WEC. The statewide voter registration system includes a letter generation tool for clerks that allows them to easily create HAVA Check Non-Match letters. The tool simply creates a word or PDF file that the clerk must print, sign, and mail. Use of the tool is optional and clerks may instead use their own letter or postcard formats if desired.

3. **Summary Data.** As noted above, the HAVA check process originates with the Help America Vote Act of 2002. Section 303 of HAVA, titled "Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail," establishes the requirement to conduct HAVA Checks. That section mandates the creation of a computerized list containing the name and registration information of every legally registered voter in the State, which shall serve as the official voter registration list for federal and state elections. HAVA § 303(a)(1)(A) codified at 52 U.S.C. § 21083(a)(1)(A). HAVA requires that individuals, upon registering to vote, provide a current driver license number, if they have one, or last four digits of their Social Security Number, for those who do not. Voters who have neither a driver license nor a Social Security Number are assigned a separate identification number for purposes of the official registration list. HAVA § 303(a)(5)(A) codified at 52 U.S.C. § 21083(a)(5)(A).

The statewide voter registration system is programmed to perform HAVA checks with both the Wisconsin Department of Transportation and the Social Security Administration. These checks return one of the codes listed in Note B above and non-matches are flagged by the system for clerk review. Clerks are asked to review non-matches to ensure a data entry error was not responsible for the non-match result. Full instructions for the DMV check process can be found in Chapter 2, Section 2.5 of the WisVote User Manual.

AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

WISCONSIN CIRCUIT COURT
DANE COUNTY

Yiping Liu 450 Augusta Dr Madison WI 53717 Kathleen Johnson 1318 Dale Ave Madison WI 53705 Susan N. Timmerman 1801 Cameron Dr Madison WI 53711 Mary Baldwin 17 S. Whitney Way Madison WI 53705 Bonnie Held 5115 Autumn Leaf Ln, Apt 179 Madison WI 53704 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

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Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 215 S Hamilton St, Madison, WI 53703 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

AMERICAN OVERSIGHT

WISCONSIN CIRCUIT COURT
DANE COUNTY

Yiping Liu 450 Augusta Dr Madison WI 53717 Kathleen Johnson 1318 Dale Ave Madison WI 53705 Susan N. Timmerman 1801 Cameron Dr Madison WI 53711 Mary Baldwin 17 S. Whitney Way Madison WI 53705 Bonnie Held 5115 Autumn Leaf Ln, Apt 179 Madison WI 53704 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

AMERICAN OVERSIGHT

Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Madison for alleged violations of election laws regarding the City of Madison facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Madison. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Madison's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

AMERICAN OVERSIGHT

Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24);

The Parties

The Plaintiffs:

1. Yiping Liu is a Wisconsin elector residing at 450 Augusta Drive, Madison WI 53717.

2. Kathleen Johnson is a Wisconsin elector residing at 1318 Dale Avenue, Madison WI 53705.

3. Susan N. Timmerman is a Wisconsin elector residing at 1801 Cameron Drive, Madison WI 53711.

4. Mary Baldwin is a Wisconsin elector residing at 17 S. Whitney Way, Madison WI 53705.

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5. Bonnie Held is a Wisconsin elector residing at 5115 Autumn Leaf Lane, Apt. 179, Madison WI 53704.

The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Dane County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

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10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Madison Mayor Satya Rhodes-Conway, the City of Madison City Clerk Maribeth Witzel-Behl and the WEC Administrator, Megan Wolfe, WEC case number EL 21-33.

11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

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17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

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23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint*

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Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).

28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*

AMERICAN OVERSIGHT

- Poll worker recruitment and training; *id., App. 991–992;* and

- Safe and efficient election-day administration; *id, App. 993–994*.

31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

> - The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;
>
> - Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;
>
> - The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;
>
> - The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and
>
> - CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example,

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Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision

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was directed at purely governmental functions: monetary appropriations and governmental decision-making.

38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

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- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the

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primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of

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returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

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43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

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- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303)*.

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Madison's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Madison may have resulted in benefit to Madison voters over

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those outside of Madison, and although voters within Madison may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 10*. This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Madison, to the disadvantage of others." *Exhibit A, WEC Decision at 11*. This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

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95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Liu, et al. v. Wolfe*
Case No. EL 21-33

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated May 24, 2021, which you submitted to the Commission on behalf of your clients, Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Satya Rhodes-Conway, Mayor of the City of Madison; and Maribeth Witzel-Behl, Clerk for the City of Madison. Complainants accompanied the Complaint with an Appendix of over 800 pages.

By email to all parties dated June 7, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Rhodes-Conway and Witzel-Behl filed a joint Answer ("Answer") and supporting Affidavit of Maribeth Witzel-Behl, and Respondent Wolfe filed both a Response ("Wolfe Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-29, 21-30, and 21-31). Respondents Rhodes-Conway and Witzel-Behl objected to the combined Memorandum of Law and Appendix by letter dated August 12, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

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WI-REP-22-0106-AP00348
EXHIBIT A

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Rhodes-Conway and Witzel-Behl again objected to the Reply by letter dated August 25, 2021, arguing among other things that the Reply incorporated new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Rhodes-Conway and Witzel-Behl filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various answers, responses, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Madison, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Madison adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Madison's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 19, 21, 44. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 42. The Complaint alleges that CTCL money was accepted by the City of Madison, the City of Racine, the City of Green Bay, the City of Kenosha, and the City of Milwaukee. Complaint, ¶¶ 21, 44. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 45.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Madison failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, p. 3.

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 60 ("[W]ith the added private

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conditions on Madison's election process, the Madison Complainants were within a jurisdictional boundary that affected them as a demographic group."). *See also* Complaint ¶ 63 (by accepting CTCL conditional grants, the "Wisconsin Five cities … secur[ed] for themselves conditional grants not available to the rest of the state by obligating themselves to CTCL's conditions"). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 95. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 86.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Madison's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 5, 35.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Madison and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 36.

- Complainants request that the "Commission … issue an order declaring that Madison's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 36.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 36-37. *See also* Complaint, p. 5.

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- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 37.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 37.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Madison accepted and received the CTCL grant money.

Respondents Rhodes-Conway and Witzel-Behl assert several defenses to the Complaint, including the following:

- "Complainants fail to point to any law which prohibits the City's acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated." Answer, p. 2. Respondents Rhodes-Conway and Witzel-Behl argue that "[t]he Legislature has acknowledged that current law includes no such provision [prohibiting municipalities from using private grant funds] by its ongoing attempts to enact such a law." *Id.* (citing 2021 Wis. S.B. 207 and 2021 Wis. A.B. 173).

- "The City was one of 218 municipalities in Wisconsin to receive grants funds from CTCL ("WI-218"). The Complaint conveniently ignores that CTCL grants were issued to municipalities without regard to their partisan make-up of their electorates." Answer, p. 3. Complainants do not contest this fact, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "The Complaint is not timely." Answer, p. 3. *See also* Answer, pp. 4-12.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 3. *See also* Answer, pp. 12-14.

- Respondent Rhodes-Conway "is not a proper party to the Complaint" because she is, as alleged in the Answer, not an election official. Answer, p. 13.

- "Complainants would have the Commission exceed its statutory authority by creating new election laws—essentially usurping legislative authority to do so." Answer, p. 20.

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In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Wolfe Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 54.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 55. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 95), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

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The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Madison's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Rhodes-Conway and Witzel-Behl committed a violation of law or abuse of discretion as a result of the City of Madison's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

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This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents (including Respondents Rhodes-Conway and Witzel-Behl in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 14).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 15).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections." Complaint, ¶ 16.

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However, Complainants do not show that either the Elections Clause or the Electors Clause of the U.S. Constitution *prohibit* the adoption of private corporate conditions.

As Respondents Rhodes-Conway and Witzel-Behl note in their Response, two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Madison) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020)

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("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 101-102. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely

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violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Madison may have resulted in benefit to Madison voters over those outside of Madison, and although voters within Madison may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas*

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Cty., 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Madison. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Madison, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Madison. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

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First, although Complainants assert that Respondent Wolfe supported the City of Madison's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether the Mayor is a proper party to the action.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 37. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking

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action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Michael Haas, Esq.
Steven Brist, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

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WISCONSIN CIRCUIT COURT
DANE COUNTY

Yiping Liu 450 Augusta Dr Madison WI 53717 Kathleen Johnson 1318 Dale Ave Madison WI 53705 Susan N. Timmerman 1801 Cameron Dr Madison WI 53711 Mary Baldwin 17 S. Whitney Way Madison WI 53705 Bonnie Held 5115 Autumn Leaf Ln, Apt 179 Madison WI 53704 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

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Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 215 S Hamilton St, Madison, WI 53703 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WISCONSIN CIRCUIT COURT
DANE COUNTY

Yiping Liu 450 Augusta Dr Madison WI 53717 Kathleen Johnson 1318 Dale Ave Madison WI 53705 Susan N. Timmerman 1801 Cameron Dr Madison WI 53711 Mary Baldwin 17 S. Whitney Way Madison WI 53705 Bonnie Held 5115 Autumn Leaf Ln, Apt 179 Madison WI 53704 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

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Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Madison for alleged violations of election laws regarding the City of Madison facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Madison. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Madison's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

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Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24);

The Parties

The Plaintiffs:

1. Yiping Liu is a Wisconsin elector residing at 450 Augusta Drive, Madison WI 53717.

2. Kathleen Johnson is a Wisconsin elector residing at 1318 Dale Avenue, Madison WI 53705.

3. Susan N. Timmerman is a Wisconsin elector residing at 1801 Cameron Drive, Madison WI 53711.

4. Mary Baldwin is a Wisconsin elector residing at 17 S. Whitney Way, Madison WI 53705.

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5. Bonnie Held is a Wisconsin elector residing at 5115 Autumn Leaf Lane, Apt. 179, Madison WI 53704.

The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Dane County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

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10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Madison Mayor Satya Rhodes-Conway, the City of Madison City Clerk Maribeth Witzel-Behl and the WEC Administrator, Megan Wolfe, WEC case number EL 21-33.

11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

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17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

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23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint*

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Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).

28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*

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- Poll worker recruitment and training; *id., App. 991–992;* and

- Safe and efficient election-day administration; *id, App. 993–994*.

31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

> - The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;
>
> - Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;
>
> - The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;
>
> - The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and
>
> - CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example,

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Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision

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was directed at purely governmental functions: monetary appropriations and governmental decision-making.

38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

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- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the

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primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of

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returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

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43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

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- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303)*.

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Madison's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Madison may have resulted in benefit to Madison voters over

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those outside of Madison, and although voters within Madison may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 10*. This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Madison, to the disadvantage of others." *Exhibit A, WEC Decision at 11*. This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

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95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Liu, et al. v. Wolfe*
Case No. EL 21-33

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated May 24, 2021, which you submitted to the Commission on behalf of your clients, Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Satya Rhodes-Conway, Mayor of the City of Madison; and Maribeth Witzel-Behl, Clerk for the City of Madison. Complainants accompanied the Complaint with an Appendix of over 800 pages.

By email to all parties dated June 7, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Rhodes-Conway and Witzel-Behl filed a joint Answer ("Answer") and supporting Affidavit of Maribeth Witzel-Behl, and Respondent Wolfe filed both a Response ("Wolfe Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-29, 21-30, and 21-31). Respondents Rhodes-Conway and Witzel-Behl objected to the combined Memorandum of Law and Appendix by letter dated August 12, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

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WI-REP-22-0106-AP00399
EXHIBIT A

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Rhodes-Conway and Witzel-Behl again objected to the Reply by letter dated August 25, 2021, arguing among other things that the Reply incorporated new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Rhodes-Conway and Witzel-Behl filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various answers, responses, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Madison, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Madison adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Madison's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 19, 21, 44. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 42. The Complaint alleges that CTCL money was accepted by the City of Madison, the City of Racine, the City of Green Bay, the City of Kenosha, and the City of Milwaukee. Complaint, ¶¶ 21, 44. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 45.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Madison failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, p. 3.

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 60 ("[W]ith the added private

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conditions on Madison's election process, the Madison Complainants were within a jurisdictional boundary that affected them as a demographic group."). *See also* Complaint ¶ 63 (by accepting CTCL conditional grants, the "Wisconsin Five cities … secur[ed] for themselves conditional grants not available to the rest of the state by obligating themselves to CTCL's conditions"). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 95. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 86.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Madison's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 5, 35.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Madison and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 36.

- Complainants request that the "Commission … issue an order declaring that Madison's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 36.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 36-37. *See also* Complaint, p. 5.

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- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 37.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 37.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Madison accepted and received the CTCL grant money.

Respondents Rhodes-Conway and Witzel-Behl assert several defenses to the Complaint, including the following:

- "Complainants fail to point to any law which prohibits the City's acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated." Answer, p. 2. Respondents Rhodes-Conway and Witzel-Behl argue that "[t]he Legislature has acknowledged that current law includes no such provision [prohibiting municipalities from using private grant funds] by its ongoing attempts to enact such a law." *Id.* (citing 2021 Wis. S.B. 207 and 2021 Wis. A.B. 173).

- "The City was one of 218 municipalities in Wisconsin to receive grants funds from CTCL ("WI-218"). The Complaint conveniently ignores that CTCL grants were issued to municipalities without regard to their partisan make-up of their electorates." Answer, p. 3. Complainants do not contest this fact, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "The Complaint is not timely." Answer, p. 3. *See also* Answer, pp. 4-12.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 3. *See also* Answer, pp. 12-14.

- Respondent Rhodes-Conway "is not a proper party to the Complaint" because she is, as alleged in the Answer, not an election official. Answer, p. 13.

- "Complainants would have the Commission exceed its statutory authority by creating new election laws—essentially usurping legislative authority to do so." Answer, p. 20.

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In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Wolfe Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 54.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 55. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 95), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

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The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Madison's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Rhodes-Conway and Witzel-Behl committed a violation of law or abuse of discretion as a result of the City of Madison's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

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This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents (including Respondents Rhodes-Conway and Witzel-Behl in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 14).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 15).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections." Complaint, ¶ 16.

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However, Complainants do not show that either the Elections Clause or the Electors Clause of the U.S. Constitution *prohibit* the adoption of private corporate conditions.

As Respondents Rhodes-Conway and Witzel-Behl note in their Response, two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Madison) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020)

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("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 101-102. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely

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violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Madison may have resulted in benefit to Madison voters over those outside of Madison, and although voters within Madison may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas*

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Cty., 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Madison. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Madison, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Madison. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

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First, although Complainants assert that Respondent Wolfe supported the City of Madison's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether the Mayor is a proper party to the action.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 37. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking

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action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Michael Haas, Esq.
Steven Brist, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

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WISCONSIN CIRCUIT COURT
MILWAUKEE COUNTY

Cynthia Werner 8809 W. Tripoli Avenue Milwaukee, WI 53228 Rochar C. Jeffries 3829 N21st St Milwaukee, WI 53206 Mack Azinger 4131 W Martin Drive Apt 301 Milwaukee, WI 53208 Dave Bolter 2761 South 43rd Street Milwaukee, WI 53219 Daniel Joseph Miller 931 E Auer Avenue Milwaukee, WI 53212 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

THE STATE OF WISCONSIN, Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

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Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 901 N 9th St, Milwaukee, WI 53233 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WISCONSIN CIRCUIT COURT
MILWAUKEE COUNTY

Cynthia Werner 8809 W. Tripoli Avenue Milwaukee, WI 53228 Rochar C. Jeffries 3829 N21st St Milwaukee, WI 53206 Mack Azinger 4131 W Martin Drive Apt 301 Milwaukee, WI 53208 Dave Bolter 2761 South 43rd Street Milwaukee, WI 53219 Daniel Joseph Miller 931 E Auer Avenue Milwaukee, WI 53212 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

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Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Milwaukee for alleged violations of election laws regarding the City of Milwaukee facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Milwaukee. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Milwaukee's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

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Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24);

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Cynthia Werner is a Wisconsin elector residing at 8809 W. Tripoli Avenue, Milwaukee, WI 53228.

2. Rochar C. Jeffries is a Wisconsin elector residing at 3829 N21st Street, Milwaukee, WI 53206.

3. Mack Azinger is a Wisconsin elector residing at 4131 W Martin Drive, Apt. 301, Milwaukee, WI 53208.

4. Dave Bolter is a Wisconsin elector residing at 2761 South 43rd Street, Milwaukee, WI 53219.

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5. Daniel Joseph Miller is a Wisconsin elector residing at 931 E Auer Avenue, Milwaukee, WI 53212.

The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Milwaukee County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

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10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Milwaukee Mayor Tom Barrett, City of Milwaukee City Clerk Jim Owczarski and the WEC Administrator Megan Wolfe, WEC case number EL 21-31.

11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

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17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

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23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint*

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Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).

28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*

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- Poll worker recruitment and training; *id., App. 991–992;* and

- Safe and efficient election-day administration; *id, App. 993–994*.

31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;

- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;

- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and

- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example,

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Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision

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was directed at purely governmental functions: monetary appropriations and governmental decision-making.

38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

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- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the

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primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of

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returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

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43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

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- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303)*.

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Milwaukee's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Milwaukee may have resulted in benefit to Milwaukee voters over

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those outside of Milwaukee, and although voters within Milwaukee may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 10-11*. This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Milwaukee, to the disadvantage of others." *Exhibit A, WEC Decision at 11*. This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

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95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Werner, et al. v. Wolfe*
Case No. EL 21-31

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated May 7, 2021, which you submitted to the Commission on behalf of your clients, Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, and Daniel Joseph Miller (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Tom Barrett, Mayor of the City of Milwaukee; and Jim Owczarski, Clerk for the City of Milwaukee. Complainants accompanied the Complaint with an Appendix of over 700 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Barrett and Owczarski filed a joint Answer ("Answer") and Respondent Wolfe filed both a Response ("Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-29, 21-30, and 21-33). Respondents Barrett and Owczarski objected to the combined Memorandum of Law and Appendix by letter dated August 12, 2021. By email dated later on August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Barrett and Owczarski again objected to the Reply by letter dated August 26, 2021, arguing among other things that the Reply incorporated

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new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Barrett and Owczarski filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various answers, responses, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Milwaukee, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Milwaukee adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Milwaukee's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 16, 19, 37. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 29, 35. The Complaint alleges that CTCL money was accepted by the City of Milwaukee, the City of Kenosha, the City of Racine, the City of Green Bay, and the City of Madison. Complaint, ¶ 19. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 38.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Milwaukee failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, pp. 2-3.

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 53 ("[W]ith the added private conditions on Milwaukee's election process, the Milwaukee Complainants were within a jurisdictional boundary that affected them as a demographic group."). *See also* Complaint ¶ 54 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters

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over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 84. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 86.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Milwaukee's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 5, 31.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Milwaukee and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 32.

- Complainants request that the "Commission … issue an order declaring that Milwaukee's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 32.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 32-33. *See also* Complaint, p. 5.

- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 33.

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- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 33.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Milwaukee accepted and received the CTCL grant money.

Respondents Barrett and Owczarski assert several defenses to the Complaint, including the following:

- "Complainants fail to point to any law that prohibits the City's acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated." Answer, p. 2.

- "[T]he City [of Milwaukee] was one of 218 municipalities in Wisconsin to receive grant funds from CTCL ("WI-218"). Answer, p. 4. Complainants do not contest the fact more than 200 Wisconsin municipalities received CTCL grants, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "[T]he Complaint is [not] timely." Answer, p. 4. *See also* Answer, pp. 7-12.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 4. *See also* Answer, pp. 12-14.

- "Respondents [Barrett and Owczarski] are not 'election officials' as that term is used under Wis. Stat. § 5.06, the therefore the Complaint fails to state a claim." Answer, p. 4. *See also* Answer, pp. 4-6. Additionally, Respondents Barrett and Owczarski argue: [A]ll of Complainants' legal arguments center around the acceptance of the CTCL grant funds and approval of how those funds were to be used. Neither the Mayor nor the City Clerk, in any of their professional capacities, had authority to accept the CTCL grant. The Common Council took that action, yet it is not named as a party. The named Respondents are not synonymous with the entire City government; they have specific roles within it, and those roles do not include authority to accept the CTCL grant funds." Answer, p. 13.

- "Complainants would have the Commission exceed its statutory authority by creating new election laws—essentially usurping legislative authority to do so." Answer, p. 21.

In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on

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March 31, 2021. Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 47.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 48. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 84), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

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The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Milwaukee's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Barrett and Owczarski committed a violation of law or abuse of discretion as a result of the City of Milwaukee's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents

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(including Tom Barrett, who is one of the Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 12).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 13).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 14. However, Complainants do not show that either the Elections Clause or the Electors Clause of the

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U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

Two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Milwaukee) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the

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Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 90-91. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The

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court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Milwaukee may have resulted in benefit to Milwaukee voters over those outside of Milwaukee, and although voters within Milwaukee may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain

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that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Milwaukee. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Milwaukee, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Milwaukee. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

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First, although Complainants assert that Respondent Wolfe supported the City of Milwaukee's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether Respondents Barrett and Owczarski are proper parties to this action.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 33. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking

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action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Kathryn Z. Block, Esq.
James M. Carroll, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

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WISCONSIN CIRCUIT COURT
MILWAUKEE COUNTY

Cynthia Werner 8809 W. Tripoli Avenue Milwaukee, WI 53228 Rochar C. Jeffries 3829 N21st St Milwaukee, WI 53206 Mack Azinger 4131 W Martin Drive Apt 301 Milwaukee, WI 53208 Dave Bolter 2761 South 43rd Street Milwaukee, WI 53219 Daniel Joseph Miller 931 E Auer Avenue Milwaukee, WI 53212 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

THE STATE OF WISCONSIN, Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

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Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 901 N 9th St, Milwaukee, WI 53233 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WISCONSIN CIRCUIT COURT
MILWAUKEE COUNTY

Cynthia Werner 8809 W. Tripoli Avenue Milwaukee, WI 53228 Rochar C. Jeffries 3829 N21st St Milwaukee, WI 53206 Mack Azinger 4131 W Martin Drive Apt 301 Milwaukee, WI 53208 Dave Bolter 2761 South 43rd Street Milwaukee, WI 53219 Daniel Joseph Miller 931 E Auer Avenue Milwaukee, WI 53212 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

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Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Milwaukee for alleged violations of election laws regarding the City of Milwaukee facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Milwaukee. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Milwaukee's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse and Dale Giles, Complainants v. Administrator Meagan Wolfe, Wisconsin Elections Commissioner, Mayor Cory Mason, City of

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Racine, Tara Coolidge, City Clerk—City of Racine (WEC Case No. 21-29);

- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24);

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Cynthia Werner is a Wisconsin elector residing at 8809 W. Tripoli Avenue, Milwaukee, WI 53228.

2. Rochar C. Jeffries is a Wisconsin elector residing at 3829 N21st Street, Milwaukee, WI 53206.

3. Mack Azinger is a Wisconsin elector residing at 4131 W Martin Drive, Apt. 301, Milwaukee, WI 53208.

4. Dave Bolter is a Wisconsin elector residing at 2761 South 43rd Street, Milwaukee, WI 53219.

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5. Daniel Joseph Miller is a Wisconsin elector residing at 931 E Auer Avenue, Milwaukee, WI 53212.

The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Milwaukee County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

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10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Milwaukee Mayor Tom Barrett, City of Milwaukee City Clerk Jim Owczarski and the WEC Administrator Megan Wolfe, WEC case number EL 21-31.

11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

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17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076.*

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint, ¶¶ 17, 25, 26–30, 32, 47.*

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint ¶ 29.* The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018.*

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23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint*

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Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).

28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- 'Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*

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- Poll worker recruitment and training; *id., App. 991–992;* and

- Safe and efficient election-day administration; *id, App. 993–994*.

31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;

- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;

- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and

- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example,

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Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision

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was directed at purely governmental functions: monetary appropriations and governmental decision-making.

38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

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- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157*.

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160*.

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6*.

- Modern Selections to address Spanish language. *Id., App. 167-9*.

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the

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primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600.*

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of

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returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

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43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338*.

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

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- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303)*.

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

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The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the

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U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10.* Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11.* Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3

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(E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Milwaukee's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

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WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8*.

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Milwaukee may have resulted in benefit to Milwaukee voters over

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those outside of Milwaukee, and although voters within Milwaukee may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 10-11*. This analysis reflects a reliance upon record documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076*.

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Milwaukee, to the disadvantage of others." *Exhibit A, WEC Decision at 11*. This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and

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specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further

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arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

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Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

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86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

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95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or

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> immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise

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of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.

(g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:

1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.

2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.

3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) *Induce any voter to*:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) *Remain away from the polls at an election*.

(b) *Reward any voter for having*:

(1) Refrained from voting.

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(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) *Remained away from the polls at an election*.
Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

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111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to

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which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality

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or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

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125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

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133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging

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in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

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- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

  i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
  ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violates federal and state law, and are void as illegal and against public policy.
  iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Werner, et al. v. Wolfe*
Case No. EL 21-31

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated May 7, 2021, which you submitted to the Commission on behalf of your clients, Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, and Daniel Joseph Miller (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Tom Barrett, Mayor of the City of Milwaukee; and Jim Owczarski, Clerk for the City of Milwaukee. Complainants accompanied the Complaint with an Appendix of over 700 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Barrett and Owczarski filed a joint Answer ("Answer") and Respondent Wolfe filed both a Response ("Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-29, 21-30, and 21-33). Respondents Barrett and Owczarski objected to the combined Memorandum of Law and Appendix by letter dated August 12, 2021. By email dated later on August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Barrett and Owczarski again objected to the Reply by letter dated August 26, 2021, arguing among other things that the Reply incorporated

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EXHIBIT A

new facts and issues not raised in the initial Complaint. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Barrett and Owczarski filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various answers, responses, and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Milwaukee, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Milwaukee adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Milwaukee's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 16, 19, 37. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 29, 35. The Complaint alleges that CTCL money was accepted by the City of Milwaukee, the City of Kenosha, the City of Racine, the City of Green Bay, and the City of Madison. Complaint, ¶ 19. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 38.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Milwaukee failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, pp. 2-3.

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 53 ("[W]ith the added private conditions on Milwaukee's election process, the Milwaukee Complainants were within a jurisdictional boundary that affected them as a demographic group."). *See also* Complaint ¶ 54 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters

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over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 84. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 86.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Milwaukee's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 5, 31.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Milwaukee and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 32.

- Complainants request that the "Commission … issue an order declaring that Milwaukee's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 32.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 32-33. *See also* Complaint, p. 5.

- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 33.

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- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 33.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Milwaukee accepted and received the CTCL grant money.

Respondents Barrett and Owczarski assert several defenses to the Complaint, including the following:

- "Complainants fail to point to any law that prohibits the City's acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated." Answer, p. 2.

- "[T]he City [of Milwaukee] was one of 218 municipalities in Wisconsin to receive grant funds from CTCL ("WI-218"). Answer, p. 4. Complainants do not contest the fact more than 200 Wisconsin municipalities received CTCL grants, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "[T]he Complaint is [not] timely." Answer, p. 4. *See also* Answer, pp. 7-12.

- The Complaint "does not set forth facts establishing probable cause to believe that a violation of law has occurred." Answer p. 4. *See also* Answer, pp. 12-14.

- "Respondents [Barrett and Owczarski] are not 'election officials' as that term is used under Wis. Stat. § 5.06, the therefore the Complaint fails to state a claim." Answer, p. 4. *See also* Answer, pp. 4-6. Additionally, Respondents Barrett and Owczarski argue: [A]ll of Complainants' legal arguments center around the acceptance of the CTCL grant funds and approval of how those funds were to be used. Neither the Mayor nor the City Clerk, in any of their professional capacities, had authority to accept the CTCL grant. The Common Council took that action, yet it is not named as a party. The named Respondents are not synonymous with the entire City government; they have specific roles within it, and those roles do not include authority to accept the CTCL grant funds." Answer, p. 13.

- "Complainants would have the Commission exceed its statutory authority by creating new election laws—essentially usurping legislative authority to do so." Answer, p. 21.

In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on

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March 31, 2021. Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 47.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 48. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 84), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

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The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Milwaukee's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Barrett and Owczarski committed a violation of law or abuse of discretion as a result of the City of Milwaukee's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."

Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents

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(including Tom Barrett, who is one of the Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 12).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 13).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 14. However, Complainants do not show that either the Elections Clause or the Electors Clause of the

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U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

Two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Milwaukee) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the

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Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 90-91. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The

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court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Milwaukee may have resulted in benefit to Milwaukee voters over those outside of Milwaukee, and although voters within Milwaukee may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain

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that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Milwaukee. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Milwaukee, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Milwaukee. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

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First, although Complainants assert that Respondent Wolfe supported the City of Milwaukee's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness and whether Respondents Barrett and Owczarski are proper parties to this action.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations to the State Legislature for changes to state election laws." Complaint, p. 33. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking

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action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Kathryn Z. Block, Esq.
James M. Carroll, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

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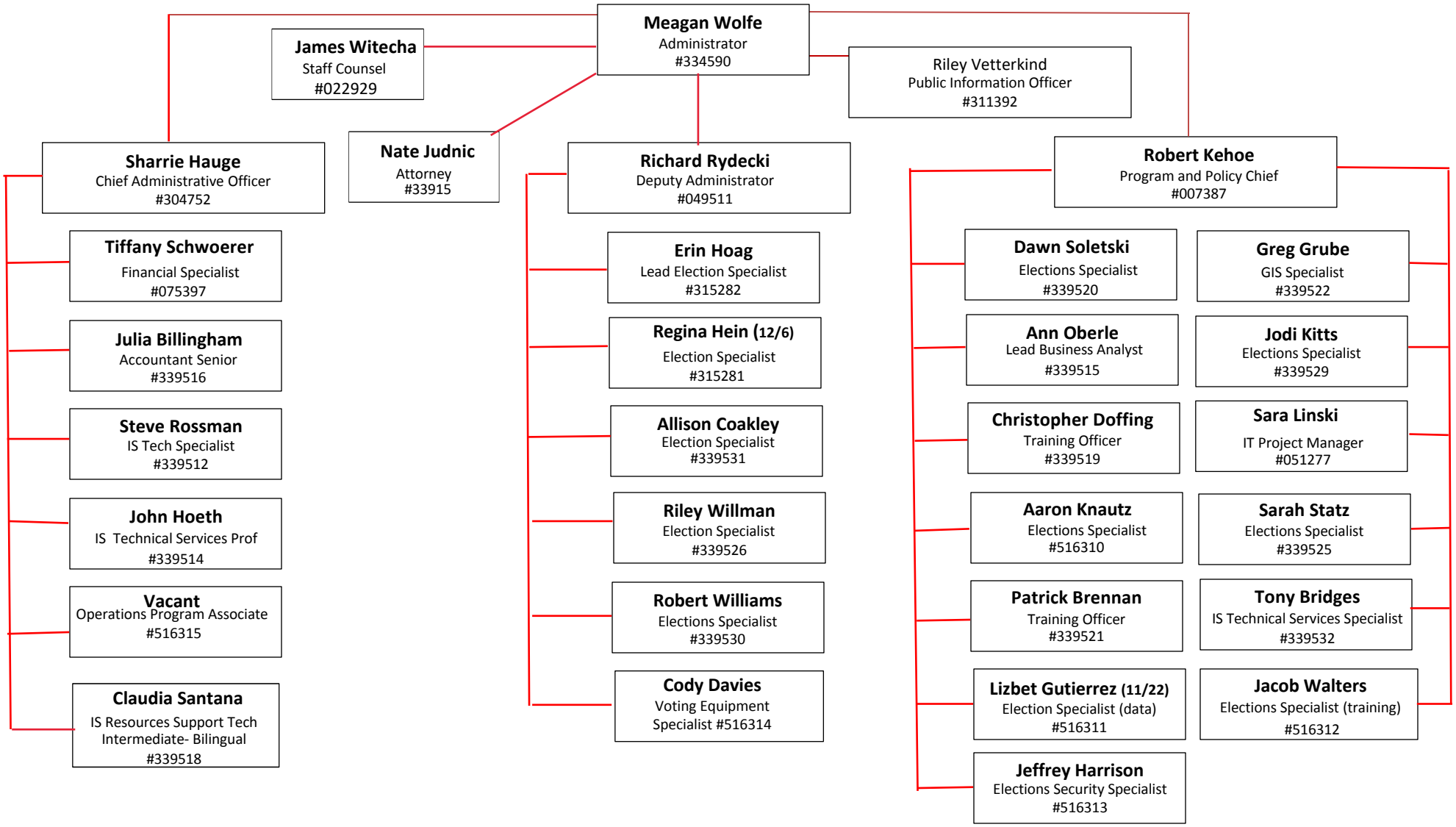
WISCONSIN ELECTIONS COMMISSION



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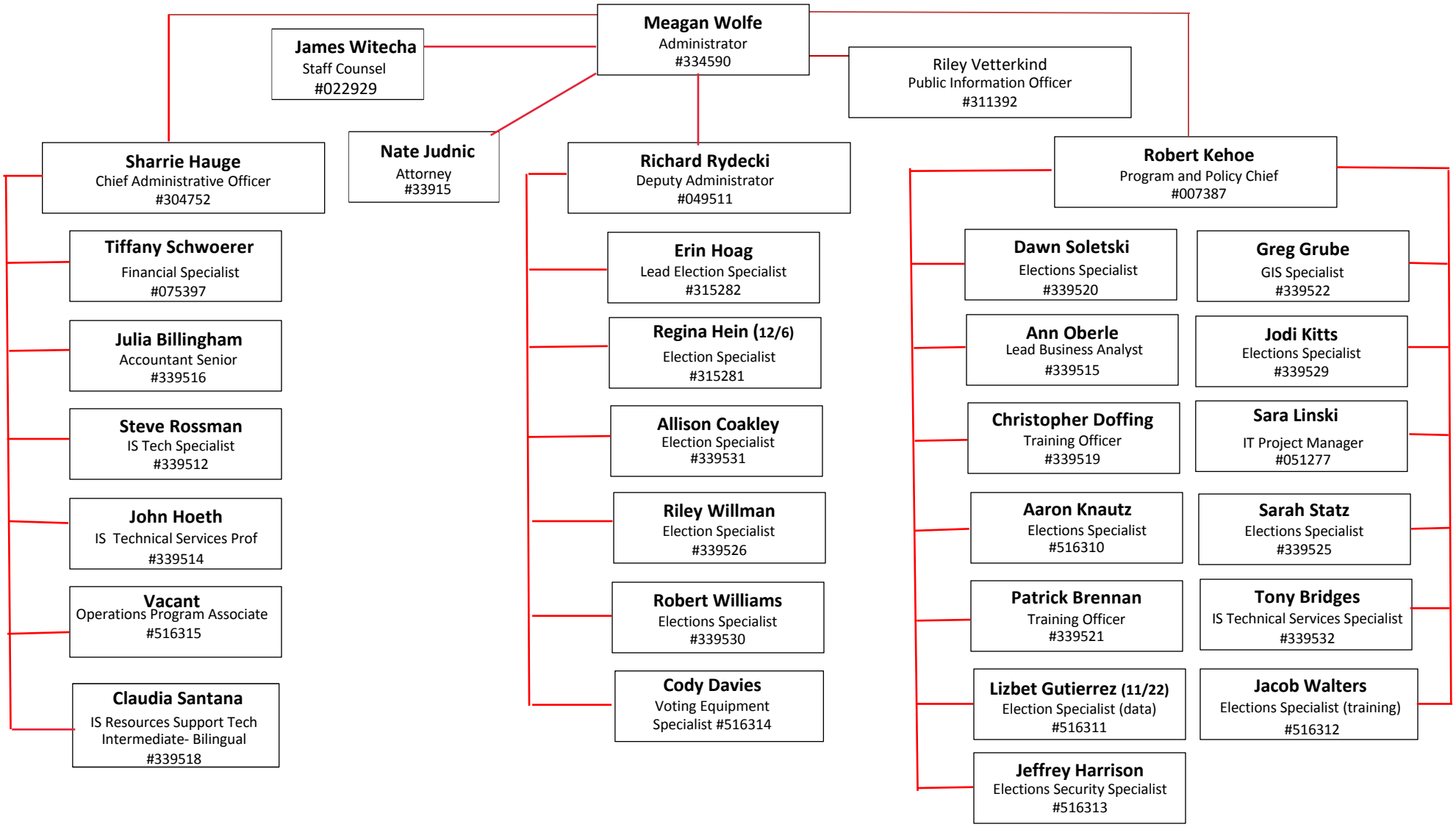
WISCONSIN ELECTIONS COMMISSION



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POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516315	19-063	510

4. NAME OF EMPLOYEE
Julia Billingham

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave #3
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Accountant - Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Sharrie Hauge, Financial Program Supervisor

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
11/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See Attached

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— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
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(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor S Hauge Date 11/12/18

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee J Billingham Date 11/12/18

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

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WISCONSIN ELECTIONS COMMISSION

Accountant-Senior

Position Summary

Under the general supervision of the Chief Administrative Officer, this position is responsible for the accounting and financial management of the Federal Help America Vote Act of 2002 funds and all other federal funds the agency receives. This position will develop, monitor and maintain all accounting and financial records for the federal funds. This position will be the liaison to the U.S. Elections Assistance Commission for all matters regarding financial, accounting and expenditure reporting, including quarterly financial reporting, access and draw-down of Federal funds, and servicing and responding to all financial/accounting inquiries relating to the federal funds. This position will also serve as the agency liaison to the State Controller's Office (SCO). This position will also perform and prepare for audits, will process invoices and other financial documents, prepare and process expenditure reports and records; reconcile accounts and produce various financial reports. The ability to interpret state, federal and agency rules and policies is necessary for the preparation of accounting entries, allotments, budget items, and auditing procedures concerning STAR (PeopleSoft), the State of Wisconsin accounting system

DUTIES AND RESPONSIBILITIES

35%

A. Serve as the Financial Manager for all federal funds received by the Wisconsin Elections Commission (WEC) consistent with state and federal requirements governing federal fund sources and grants.

1. Develop, monitor and maintain all accounting and financial records for federal grant funds ensuring accounting policy and procedures for agency operations are consistent with federal grant requirements, state fiscal policy as well as professional standards for financial management and accounting. Prepare budgets that track grant activity and/or grant program(s) activity.

2. Establish grant accounts in STAR and maintain records in accordance with grant awards and federal regulations. Reconcile spreadsheets to STAR information prior to preparation of required federal reports. Prepare any accounting transactions necessary to correct accounts.

3. Develop, monitor and evaluate accounting policy and procedures for WEC's grant receipts and expenditures.

4. Coordinate the receipt and deposit of program funds.

5. Review and analyze STAR general ledger and other financial reports monthly for federal appropriations. Reconcile these reports to subsidiary systems and worksheets and prepare necessary correcting entries to reflect program activity appropriately.

AMERICAN OVERSIGHT

6. Prepare all financial reports necessary to satisfy federal reporting requirements and submit to the Chief Administrative Officer for review; develop and prepare financial reports as needed to satisfy program monitoring and other program management information needs.

7. Provide support of year-end closing responsibilities including general ledger review and analysis, correcting entries, review of encumbrances and preparation of required year-end reports for the State Controller's Office and the Legislative Audit Bureau.

8. Provide guidance, technical assistance, and other requested accounting and financial management support to program management and staff as needed for federal funds. Interpret federal and state regulations and assist program managers with compliance to these regulations.

9. Provide responses and documentation to federal and state auditors as needed during audits of federal funds; assist agency management with resolution of audit findings related to federal fund programs.

10. Review the purchasing activities within the program for compliance with appropriate State procurement procedures, statutory requirements and federal requirements.

30%
B. Manage financial reporting for all federal grant applications and federal grant awards.

1. Communicate information on financial reporting and potential financial issues to the agency Chief Administrative Officer, SCO and to federal government representatives. Maintain effective communications with staff to facilitate resolution of any financial issues.

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3. Ensure that proposed budgets for federal grant applications are reasonable, appropriately use state and federal funding, and are consistent with federal cost allocation standards.

4. Maintain expense records and provide necessary information for reimbursement requests and any other expense data as requested.

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AMERICAN OVERSIGHT

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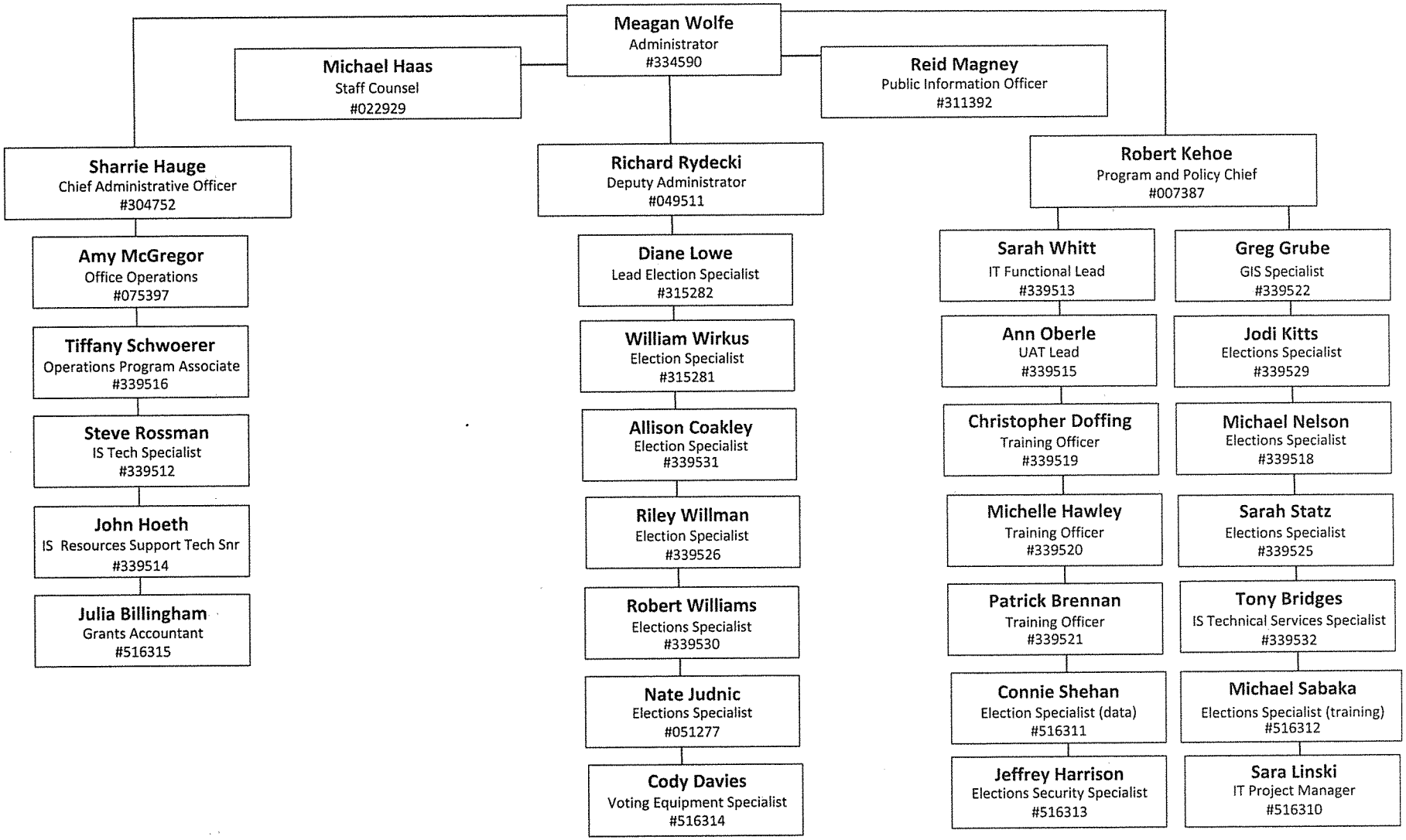

WI-REP-22-0106-A-000522

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AMERICAN OVERSIGHT

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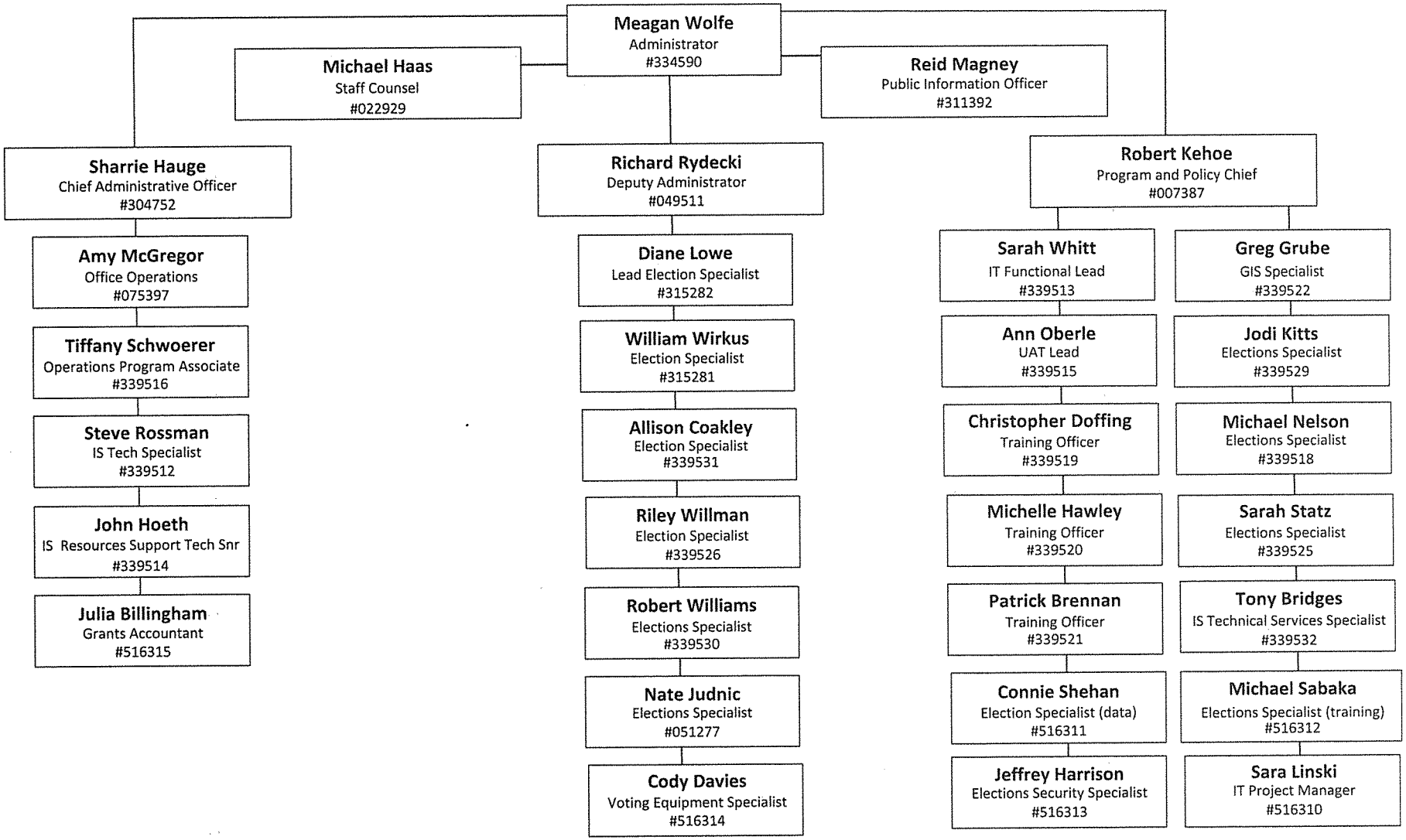

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State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339521		510

4. NAME OF EMPLOYEE
Patrick Brennan

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Staff Development Program Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
Elections Training Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Technology Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
08/2017

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	SEE ATTACHED

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ◉ limited ○ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 6/7/19

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 6/7/19

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Staff Development Program Specialist
(Elections Training Officer)

POSITION SUMMARY

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends.

This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. The position may also conduct in-person and online workshops, seminars and classes for users of the WisVote system and related applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

Duties and Responsibilities

50%

A. Create and produce training webinars, tutorials and materials for the WisVote system and related applications.

1. Maintain knowledge of WisVote and contribute to system updates and maintenance.

2. Assist in determining the most effective training platform for specific subject matter.

3. Develop, prepare and update WisVote training webinars, videos, manuals, training exercises and related training materials.

4. Review WisVote training programs and recommend changes, revisions, updates and modification.

AMERICAN OVERSIGHT

5. Coordinate production of on-line training materials in coordination with WEC staff, customers and partners.

6. Produce and publish step-by-step instructions for WisVote processes using electronic documents, online platforms, and online content management systems.

7. Develop, edit, and post online training videos and tutorials.

8. Incorporate election laws and procedures into training materials for local election officials.

35%

A. Provide Technical Assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

15%

C. Participate in general elections administration and other agency duties as assigned.

1. Research and analyze legislative initiatives to assess impact on agency systems and procedures.

2. Draft fiscal analysis and legislative status reports.

3. Draft and present materials for the Agency's Commission members and Commission Meetings.

Required Knowledge, Skills, and Abilities

1. Experience communicating effectively through various electronic media, written communications, and in-person presentations.

AMERICAN OVERSIGHT

2. Experience applying adult education principles and practices.

3. Substantial experience creating electronic training for web-based systems or applications.

4. Experience providing technical support for web-based applications.

5. Ability to conduct research, gather information, and analyze a variety of data.

6. Knowledge of training needs assessments, evaluation, and analysis techniques.

7. Ability to become proficient in the WisVote statewide voter registration system and related applications.

8. Ability to plan, organize, prioritize and manage tasks.

9. Must be able to travel as required.

10. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

11. Must comply with agency nonpartisan conduct requirements.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339521		510

4. NAME OF EMPLOYEE
Patrick Brennan

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Staff Development Program Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
Elections Training Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Technology Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
08/2017

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Signature of employee _____ Date 6/7/19

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Staff Development Program Specialist
(Elections Training Officer)

POSITION SUMMARY

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

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9. Must be able to travel as required.

10. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

11. Must comply with agency nonpartisan conduct requirements.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339532	19-007R	510

4. NAME OF EMPLOYEE
Tony Bridges

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave #3
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Technical Services Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
09/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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TIME %	GOALS AND WORKER ACTIVITIES
	See attached

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 10/18/18

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 10/18/18

18. Signature of Human Resources Manager Brock Flowers Date 10/22/2018

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Working Title: Election Security Lead
Civil Service Classification: IS Technical Services-Specialist Position
Position # 339532

Position Summary

The Wisconsin Elections Commission (WEC) develops and maintains several significant IT applications to assist in the administration of Wisconsin elections, including the statewide voter registration system known as WisVote, the Canvass Reporting System, and electronic poll book software known as Badger Book, as well as public websites such as MyVote Wisconsin and BADGER Voters. Protecting the security of these applications is crucial to ensuring accurate elections and maintaining public confidence in the integrity of Wisconsin elections.

This position serves as the point person for developing and implementing the agency's overall elections security plan. It is responsible for ensuring the implementation of cyber security best practices in the Commission's technical applications including WisVote. This position will research and maintain the agency's knowledge base regarding cybersecurity infrastructure, resources and practice. This position will also liaise with other State agencies and Federal entities regarding potential cyber threats against the Commission's applications.

This position will advise management in developing security policies in accordance with current industry standards and provide tools to ensure that agency staff and local election officials correctly implement steps to prevent and respond to cybersecurity risks and threats. It will work with training staff to educate staff members and local election officials regarding personal cyber security measures and ensure developers and technical staff apply security principles in practice. This position will also conduct routine audits, vulnerability tests and penetration tests to identify and correct potential security issues related to agency applications. It will also participate in the creation and implementation of training exercises to assist agency staff and other election officials in planning for and responding to cyber risks and threats.

Goals and Worker Activities

40%

A. Ensure that the agency's knowledge of cyber security tools and risks remains accurate and current.

   1. Review publications and guidance issued by federal and state agencies as well as other organizations related to the current cyber security landscape, available technology tools and best practices.

   2. Maintain regular communications and planning efforts with the Department of Homeland Security, Multi-State Information and Analysis Center, Division of Enterprise Technology and other agency partners regarding the security of agency IT applications.

AMERICAN OVERSIGHT

3. Review bulletins and alerts from partner agencies and organizations regarding specific and ongoing cyber risks and threats and recommended prevention and responsive measures.

4. Make recommendations to agency management and staff regarding cyber security policies and practices applicable to WisVote and other agency IT applications consistent with current industry standards.

40%

B. Serve as agency lead in developing and implementing the agency's elections security plan.

1. Facilitate meetings and tasks of agency elections security team to plan and implement tasks aimed at improving the security of IT applications and best practices of state and local election officials.

2. Provide tools to ensure that agency staff and local election officials correctly implement steps to prevent and respond to cybersecurity risks and threats.

3. Work with agency program and training staff to educate staff members and local election officials regarding personal cyber security measures

4. Ensure agency IT team and technical staff apply security principles in the development, maintenance and operation of WisVote and other IT applications. Participate in system design meetings to develop security objectives and requirements of existing and new IT systems and applications.

5. Conduct routine audits, vulnerability tests and penetration tests to identify and correct potential security issues related to agency applications.

6. Participate in the creation and implementation of training exercises to assist agency staff and other election officials in planning for and responding to cyber risks and threats.

7. Collect feedback regarding the effectiveness of agency cybersecurity training and best practice from local election officials and agency partners, and incorporate relevant feedback into agency training and initiatives.

20%

C. Carry out special projects and assignments as directed by management.

1. Prepare and present written reports and recommendations to agency management and Elections Commission.

2. Prepare communications and make presentations to local election officials, agency partners, and the public regarding election security initiatives planned and implemented by the agency.

AMERICAN OVERSIGHT

3. Assist with specific WisVote tasks as needed.

Knowledge, Skills and Abilities

1. Knowledge of IS methodologies, tools and techniques, including experience with Active Directory.

2. Advanced knowledge of computer hardware and software.

3. Strong customer service and problem-solving skills.

4. A thorough working knowledge of Federal and State election laws and procedures.

5. Strong analytical and strategic planning skills.

6. Effective oral and written communication skills. Ability to effectively communicate complex technical information to an audience with a wide range of technical expertise.

7. Proficient in Microsoft Office Suite, including knowledge of data and word processing concepts.

8. Ability to collaborate effectively with others, including agency colleagues, local election officials, and representatives of other federal, state and local agencies and organizations.

9. Ability to plan, organize, and prioritize workloads, work independently, handle multiple tasks and changing priorities, meet deadlines and perform under pressure.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339532	19-007R	510

4. NAME OF EMPLOYEE
Tony Bridges

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave #3
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Technical Services Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
09/2018

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IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 10/18/18

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(Please initial and date attachments.)

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Working Title: Election Security Lead
Civil Service Classification: IS Technical Services-Specialist Position
Position # 339532

Position Summary

The Wisconsin Elections Commission (WEC) develops and maintains several significant IT applications to assist in the administration of Wisconsin elections, including the statewide voter registration system known as WisVote, the Canvass Reporting System, and electronic poll book software known as Badger Book, as well as public websites such as MyVote Wisconsin and BADGER Voters. Protecting the security of these applications is crucial to ensuring accurate elections and maintaining public confidence in the integrity of Wisconsin elections.

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AMERICAN OVERSIGHT

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40%

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

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DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339531	20-018R	510

4. NAME OF EMPLOYEE
Allison Coakley

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue
Third Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Diane Lowe, Elections Specialist - Senior
Riley Willman, Elections Specialist - Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

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(Please initial and date attachments.)

Signature of employee [signature] Date 10/7/19

18. Signature of Human Resources Manager Kristina Thole Digitally signed by Kristina Thole Date: 2019.11.05 11:54:55 -06'00' Date

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AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Senior
Position #339531

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

Under the general supervision of the Assistant Administrator, the Commission's Elections Specialist - Senior functions as part of the elections administration team, and is a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position has developed and maintained a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position also participates in the review of petitions and supporting documentation related to candidate nomination papers, recall petitions, petitions for ballot status and recount petitions. They also assist agency efforts to certify electronic voting systems and provide guidance to local election officials about the requirements and use of such equipment.

Under general supervision, this position will assist agency efforts to meet its statutory training responsibilities through the development a comprehensive education, training and technical assistance program for Local Election Officials that includes the development, promotion, conduction, implementation and evaluation of training initiatives administered by the Commission. The position is also charged with training clerks on election applications, policies and procedures required by the Commission.

This position will assess, identify and analyze training needs, develop responses to address needs, plan for training sessions, prepare materials, and recommend polices and procedures accordingly. Additionally, this position oversees the development of classroom training, and will manage the migration of all of agency's in-person education and training classroom sessions to a web-based, online platform.

AMERICAN OVERSIGHT

This position organizes the Commission's presentations and seminars at clerk events, and meetings of the agency's statewide customers and partners. The position ensures that training materials are produced in a cost effective, timely manner to meet the statutory requirements of the Commission.

DUTIES AND RESPONSIBILITIES

35%

A. Lead agency efforts to develop Clerk education, training and technical assistance programs for the Wisconsin Elections Commission

1. Develop an evaluation tool for assessing and identify training requirements for Clerks and Local Election Officials.

2. Under general supervision, develop training plans and schedules and develop a measurement tool for assessing the training needs of Clerks and Local Election Officials in consultation with other staff members.

3. Collaborate with other Election Specialists to ensure necessary training materials and documents are created and maintained.

4. Plan and assess pre and post-training logistics and activities.

5. Conduct studies, assessments and make recommendations on platforms, approaches and strategies for effectively and efficiently developing, implementing and evaluating the clerks' training needs and initiatives.

6. Oversee and organize the migration of all of agency's in-person education and training classroom sessions to a web-based, online platform.

35%

B. Organize and Conduct Education and Training Classes, and Provide Training and Technical Assistance to Local Election Officials and Members of the Public

1. Provide training to municipal and county clerks, Chief Election Inspectors, and other local election officials.

2. Manage, coordinate and conduct training for users on the online and web-based training and education applications utilized by the Wisconsin Elections Commission.

3. Identify agency customers and partners' annual reoccurring requests for presentations and seminars, and coordinate with agency Elections Specialists as needed.

AMERICAN OVERSIGHT

4. Develop plans and schedules for presenting to clerks and other statewide customers and partners. Also, develop an evaluation tool for assessing the value of presentations to customers and partners.

5. Provide support and assistance to other Elections Specialists who assist with agency training initiatives.

6. In consultation with Election Specialists, determine most effective training platform for specific subject matter.

20%

C. Serve as a member of the agency's election administration team and maintain election-related functions of the agency as they relate to federal, state, county, local, and school district election officials.

1. Develop and maintain a high-level working knowledge of all election laws governing responsibilities of state and local election officials and obligations of candidates.

2. Under the general supervision of the Assistant Administrator, communicate with legislators, candidates, political registrants, media representatives, other state agencies, representatives from state and national organizations, and the general public on all election-related subjects, including interpretation of laws, administrative rules, and Commission policies.

3. Prepare written communications in response to requests from agency customers.

4. Assist with examination of ballots submitted by county and municipal election officials to determine compliance with prescribed format, statutory criteria and agency certification. Inform county election officials of any discrepancies promptly and maintain a record of problems and contacts.

5. Ensure election results reported electronically by county boards of canvassers into the agency Canvass Reporting System are in the required format.

6. Assist in preparing and ensuring accuracy of notices related to all state and federal elections and distribute the correct notice to each county election official within statutory deadlines.

7. Prepare and ensure accuracy of certificates of election for all winning state and federal candidates and all applicable certificates relating to presidential, congressional and referendum elections by statutory deadlines.

AMERICAN OVERSIGHT

8. Work with and assist other agency staff with projects related to election administration, such as voting equipment approval, accessibility of polling places, voter outreach, and the statewide voter registration database and election management system.

9. Maintain information for all offices, contests, and candidates in the state's election management system. Create new offices and verify information as necessary.

10. Maintain term and incumbency information to ensure correct tracking of resignations, retirements, appointments, expiration dates and election dates for all state and federal offices.

10%

D. Assist in the processing and certification of nomination papers, recount petitions, recall petitions, petitions for ballot status, and official election results.

1. Assist in the development of ballot access checklists for federal, state and county candidates.

2. Develop and implement procedures for the agency's processing of nomination papers and election-related petitions.

3. Train staff members to determine the validity and sufficiency of ballot access documents following criteria established by law and agency procedures.

4. Determine ballot status for all federal and state candidates by evaluating documents and qualifications for placement on the ballot, and determine ballot order of names of candidates for all state and federal offices.

5. Prepare and ensure accuracy of all candidate and state referendum certifications and distribute proper certification to county election officials within the statutory deadlines for each election event.

Required knowledge, skills, and abilities

1. Demonstrated analytical skills

2. Excellent communication skills; ability to speak and write effectively.

3. Knowledge of training methods, approaches, strategies and techniques.

4. Ability to apply comprehensive knowledge of adult education concepts as well as workplace training theory, principles and practices.

AMERICAN OVERSIGHT

5. Ability to plan, organize and prioritize workloads.

6. Experience with complex training projects.

7. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials and the general public.

8. Working knowledge of election laws, administrative rules and Commission policies, methods and procedures as they relate to election administration.

9. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

10. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

Special Requirements

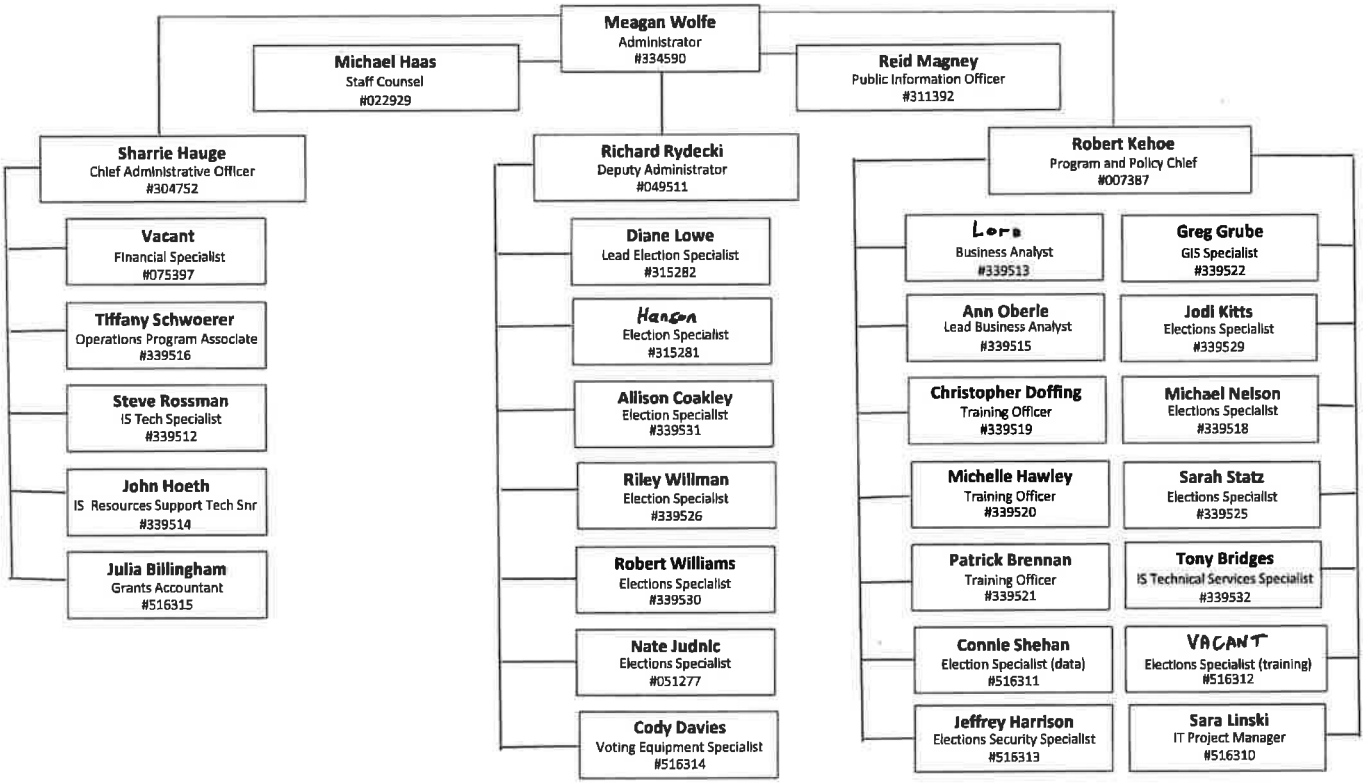
- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339531	20-018R	510

4. NAME OF EMPLOYEE
Allison Coakley

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue
Third Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Diane Lowe, Elections Specialist - Senior
Riley Willman, Elections Specialist - Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION
Please see attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	Please see attached.

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor [signature] Date 10/25/2019

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 10/7/19

18. Signature of Human Resources Manager Kristina Thole Digitally signed by Kristina Thole Date: 2019.11.05 11:54:55 -06'00' Date

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AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Senior
Position #339531

Position Summary

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AMERICAN OVERSIGHT

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DUTIES AND RESPONSIBILITIES

35%

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3. Collaborate with other Election Specialists to ensure necessary training materials and documents are created and maintained.

4. Plan and assess pre and post-training logistics and activities.

5. Conduct studies, assessments and make recommendations on platforms, approaches and strategies for effectively and efficiently developing, implementing and evaluating the clerks' training needs and initiatives.

6. Oversee and organize the migration of all of agency's in-person education and training classroom sessions to a web-based, online platform.

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AMERICAN OVERSIGHT

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5. Provide support and assistance to other Elections Specialists who assist with agency training initiatives.

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20%

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AMERICAN OVERSIGHT

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10. Maintain term and incumbency information to ensure correct tracking of resignations, retirements, appointments, expiration dates and election dates for all state and federal offices.

10%

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1. Assist in the development of ballot access checklists for federal, state and county candidates.

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4. Ability to apply comprehensive knowledge of adult education concepts as well as workplace training theory, principles and practices.

AMERICAN OVERSIGHT

5. Ability to plan, organize and prioritize workloads.

6. Experience with complex training projects.

7. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials and the general public.

8. Working knowledge of election laws, administrative rules and Commission policies, methods and procedures as they relate to election administration.

9. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

10. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

Special Requirements

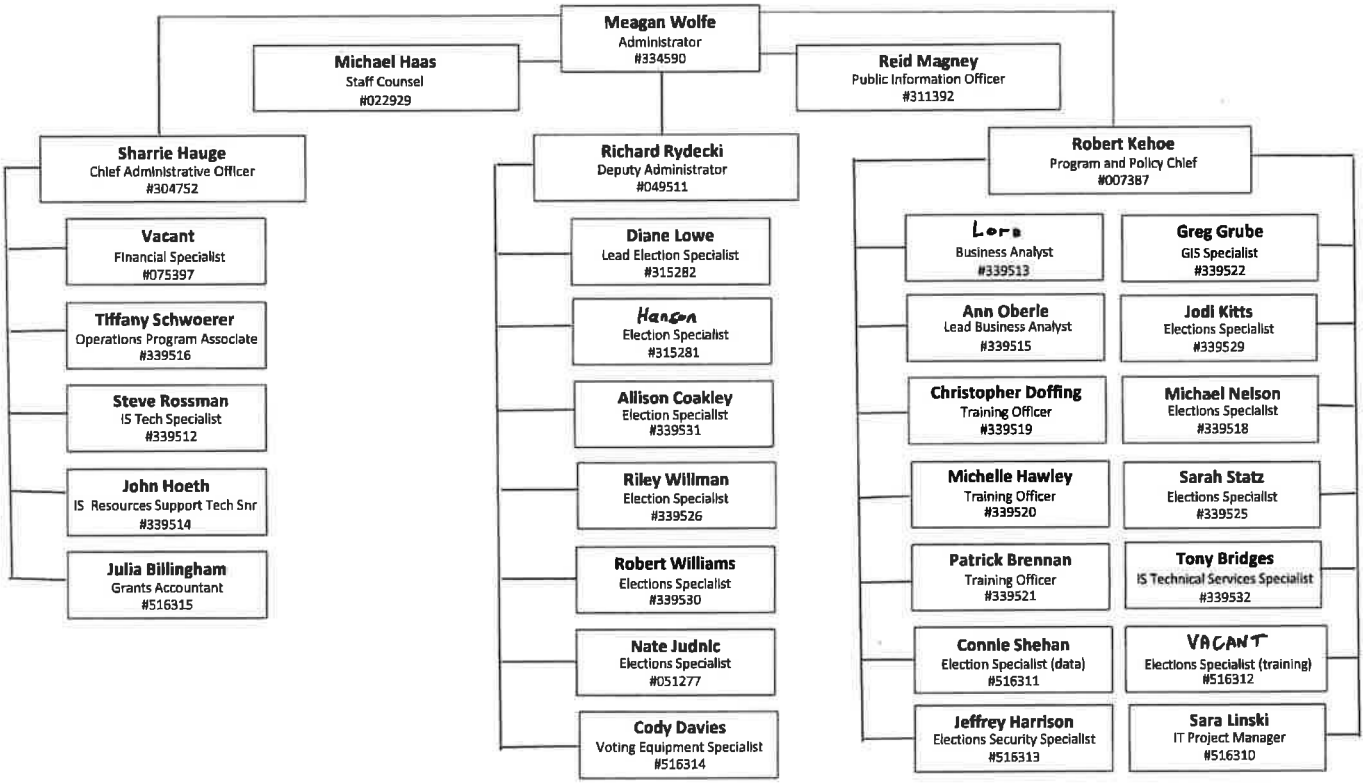
- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516314	R2021-010	510

4. NAME OF EMPLOYEE
Cody C. Davies

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Avenue
Third Floor
Madison, WI 53707

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist- Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Riley Willman, Elections Specialist- Senior
Allison Coakley, Elections Specialist- Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
December 2019

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

See Attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

- GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
- WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
- TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	See Attached

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor /s/Richard Rydecki Date 1/15/20121

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 1/15/2021

18. Signature of Human Resources Manager Julie Kisely Date 01/13/2021

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AMERICAN OVERSIGHT

PURPOSE OF THIS POSITION DESCRIPTION FORM

Employees and supervisors should be aware of the purpose of the Position Description (PD) before completing the form. The PD is the key document in determining the appropriate classification and FLSA status of a position. It is descriptive of the major goals and worker activities of the position. It is not construed to limit or modify the power of the appointing authority and subordinate supervisors to assign work to employees. However, the appointing authority, subordinate supervisors and employees are responsible for assuring that the work assigned is the work actually performed and that PDs are reasonably current descriptions of the work. It is used as an information source for the development and implementation of an effective recruitment and selection plan if a position becomes vacant. Perhaps most important in the long run, an accurate PD helps the employee know what is expected by clearly defining the work to be performed in relation to the overall goals of the work unit. The PD can also be the basis for identifying training needs and criteria for evaluating performance.

NOTE: The PD is to be filled out by the first-line supervisor or his/her designee. Most of the items are self-explanatory. If you have a question on an item, please contact your agency personnel office. Whenever this PD accompanies a personnel transaction, a current organization chart of the work unit should be included. This chart should show the employees' names, superior-subordinate relationships, classifications and current pay schedules/ranges.

INSTRUCTIONS FOR ITEM 7 (Class Title Option), Item 14 (Position Summary), Item 15 (Goals and Worker Activities), and item 16 (Supervision and Review.

Item 7: **The Class Title Option is to be filled in by the Human Resources Office.** The Class Title Option is not a working title. It is a generic subtitle which has been approved by DPM and is to be used to more specifically identify a position for recruitment, examination and certification or layoff when job analysis has show that the special character and qualifications of the position so necessitate.

Item 14: **Position Summary Statement:** This is a summary of the goals of the position plus additional information that applies to the entire position such as the level of supervision, authority and discretion; the types of contacts; the physical location, or the context (e.g., position in the process flow, formal name and nature of the program, nature of the organization, etc.). (see sample statement on page 3)

Item 15: **DEFINITIONS**

Goals are the expected results of each employee's work. They are the expected accomplishments, product or output that results from the work activities of the employee.

Worker Activities are the specific tasks the employee performs to accomplish the goals. Worker Activity statements describe what a worker actually does.

% Time is the proportion of the employee's total work time spent on a goal or worker activity annually.

INSTRUCTIONS—The steps below should be followed in completing Item 15.

1. List the **goals** of the position in descending order of importance. Each PD will usually contain between two and six goals. Identify each goal by the use of a capital letter as shown on page 3.

2. Under each goal list the **work activities** performed to accomplish sufficient information to make them understandable to a person not familiar with the field of work performed. Avoid indefinite terms such as "handle," "assist," or "process." Generally there will be an average of five worker activities per goal, but there may be as few as two or as many as necessary. Identify each worker activity by the letter of the related goal and the sequential number of worker activity as shown on page 3. If a worker activity relates to more than one goal, the second time it is used you should cross-reference this worker activity by listing the original goal letter and worker activity number (i.e., "A3" in example on page 3) under the goals it relates to.

3. If the position being described is considered to be "confidential," "managerial," or "supervisory" in nature for collective bargaining purposes; you should insure that the goals and worker activities listed explicitly describe this nature of the work.

4. In the % **Time** section, estimate the percentage of time spent working toward each goal annually. The percentages for the goals should add up to 100%. Also, where possible, estimate the percentage of time spent on each worker activity, particularly ones which constitute 10% or more of the total workload. Percentages for worker activities should be based on how much of the total (100%) job is spent on the worker activities and not on how much that worker activity contributes to a single goal.
(SEE ABBREVIATED SAMPLE ON PAGE 3)

Item 16: Check the box which best describes the type of supervision given this position. *"Close"* supervision implies that the work is performed according to detailed instructions and the supervision is available on short notice. *"Limited"* supervision implies that the incumbent proceeds on his/her own initiative while complying with policies, practices and procedures prescribed by the supervisor. The supervisor generally answers only on the more important phases of the work. *"General"* supervision implies that the work is performed independently. The incumbent seldom refers matters to supervisor except for clarification of policy.

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Elections Specialist - Senior

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends. This position leads a significant project area – the testing, approval and auditing of electronic voting systems.

This position leads the Elections Commission's voting systems approval and compliance processes. Prior to being used by municipalities in Wisconsin, any new or modified electronic voting system must be approved by the Commission, after consideration of staff testing and recommendations. This position, in consultation with other team members, will process voting equipment approval applications and will design and implement approval standards and testing protocols for voting equipment. This position will draft reports summarizing the testing protocol, standards, and results, and will make written and verbal presentations to the Commission regarding approval or denial of voting equipment applications.

This position also provides education, training, and technical assistance in the area of voting systems to the Commission's customers and partners, including county and municipal clerks and to the general public. This position is the liaison to voting equipment manufacturers and vendors as well as the United States Election Assistance Commission regarding voting equipment compliance with federal and state laws.

This position is also responsible for conducting the agency's voting systems audit procedures following each general election, and reporting audit results to the Commission. This position will stay current with developments in the area of voting systems technologies and availability, and the equipment needs of Wisconsin municipalities, and advise and make recommendations to agency management and the Commission accordingly.

Under general supervision of the Assistant Administrator, this position functions as part of the election administration team, and is a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position will develop and maintain a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position also regularly participates in conducting public outreach, education, training, technical assistance workshops, seminars, and certification classes for local election officials and members of the public. This position is also responsible for core election administration tasks, including, but not limited to review of state and federal candidate ballot access documents, ballot design and review, and canvass of election results. Further, this position will participate in implementing other initiatives identified by agency management and the Commission.

AMERICAN OVERSIGHT

Duties and Responsibilities

35%

A. Direct the agency's program for approval of electronic voting systems and equipment in compliance with the Help America Vote Act of 2002 Requirements, the Federal Voluntary Voting System Guidelines, and Wisconsin Statutes and Administrative Code.

1. Serve as contact person for voting equipment vendors and manufacturers. Review voting systems applications from equipment manufacturers for State approval to ensure proper reports, manuals and complete specifications for all hardware, firmware and software have been provided.

2. Under general supervision, develop and supervise tests to determine if electronic voting equipment meets statutory requirements, direct the preparation of test ballots, and work directly with vendors and manufacturers during the approval process to ensure that ballots are prepared and printed correctly.

3. Arrange meeting of local election officials and the public for review and demonstration of electronic voting equipment as part of the approval process. Prepare materials for these meetings and plan for necessary presentations.

4. Review and evaluate the results of voting equipment tests and make recommendations for approval of voting systems. Prepare reports and make presentations to agency management and the Commission regarding voting equipment applications for state approval.

5. Review software and hardware updates to existing voting systems and prepare recommendations regarding level of testing required and whether updates may be approved without additional testing.

6. Consult and collaborate with the United States Election Assistance Commission as necessary regarding federal certification programs.

7. Maintain an on-going relationship with certified vendors and manufacturers of voting systems to assist them in the preparation of ballots for actual elections.

8. Communicate with election equipment vendors and manufacturers, other state agencies, representatives from state and national organizations, and the general public on election-related subjects, including interpretation of laws, administrative rules, and Commission policies regarding voting systems.

9. Maintain agency records of the type of voting equipment used by each municipality. Provide information and respond to inquiries concerning approved voting equipment and supplies.

10. Assist with the development of administrative rules, criteria, and standards for certification and use of voting equipment.

15%

B. Develop and Manage Implementation of Pre-Election Testing and Post-Election Voting Systems Audit Procedures.

AMERICAN OVERSIGHT

1. Consult with elections administration program staff to determine the appropriate monitoring and assessment standards for verifying local election officials' compliance with agency policies and standards regarding the testing of voting systems before, during and after an election, and the auditing of voting systems after each general election.

2. Under general supervision, develop and implement standards and procedures for auditing the performance of voting systems after each general election. At a minimum the policy, standards and procedures should include:

   - A summary of the process (criteria) to be used to randomly select municipalities to be audited.
   - A procedure for notifying the selected municipality of the impending audit, preparing materials, documents and specified information needed for the audit.
   - A timeline for commencing and concluding the audit, and a time period for requiring the audit report to be submitted.
   - Recommendations to refine internal procedures for conducting post-election audits of voting systems used on Election Day.
   - A procedure for validating pre-election testing of voting systems conducted by municipal clerks.
   - A format for creating sample test decks to be used by municipal clerks for pre-election testing of electronic voting systems
   - A format for sharing audit findings and recommendations with municipal and county clerks and local governing bodies.
   - A process for monitoring compliance with audit findings and recommendations and resolving disputes.

3. Following each audit, prepare a report on the audit findings to agency management and the Commission.

4. Develop a process and procedure for ensuring compliance with the procedures for ballot and electronic voting system security, proposed in Administrative Code, Chapter 5.

30%

C. Assist with other Election Administration Functions of the Agency as Required.

1. As necessary, assist with core election administration tasks including the review of nomination papers or other election petitions.

2. Under general supervision, communicate with legislators, candidates, political registrants, media representatives, other state agencies, representatives from state and national organizations, and the general public on all election-related subjects, including interpretation of laws, administrative rules, and Commission policies.

AMERICAN OVERSIGHT

3. Under general supervision, participate in the provision of election administration education, training, technical assistance and public outreach to local election officials and members of the public.

4. Conduct research and analysis on new legislative initiatives as they pertain to the administration of elections, assist with compiling data for the preparation of fiscal notes on election-related legislation, and draft responses to inquiries from elected officials, local election officials, and the public.

5. Conduct research and analysis of post-election audit methods and make recommendations to agency staff and management regarding procedures for implementation of a system compatible with Wisconsin election law and administrative procedures.

6. Make oral presentations in-person and via various electronic means to county and municipal clerks and election inspectors concerning election administration issues.

7. Carry out special projects and assignments as directed by agency management.

5%

D. Provide Technical Assistance to users of the statewide voter registration system, WisVote and Monitor Quality Control of WisVote Tasks

1. Provide technical assistance and customer support to Local Election Officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by Local Election Officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

AMERICAN OVERSIGHT

15%

E. Direct agency's program for the development and support of the electronic poll book system.

1. Serve as the co-project lead for the electronic poll book program.

2. Coordinate continued system software development and updates.

3. Create and update training materials for users of the system.

4. Apply relevant federal and state election laws and administrative rules to the functionality of the system.

5. Coordinate the addition of new users of the system and organize the onboarding process.

6. Provide customer service and support for system users.

Required Knowledge, Skills, and Abilities

1. Ability to understand basic operating functions of electronic voting equipment systems and technology.

2. High-level knowledge of federal and state election laws, administrative rules, Commission policies, and business processes as they relate to election administration.

3. Strong analytical and strategic planning skills; ability to plan, organize, prioritize and manage tasks

4. Strong communication skills; ability to speak and write effectively.

5. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.

6. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

7. Ability to demonstrate initiative and independence in carrying out assigned tasks.

8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

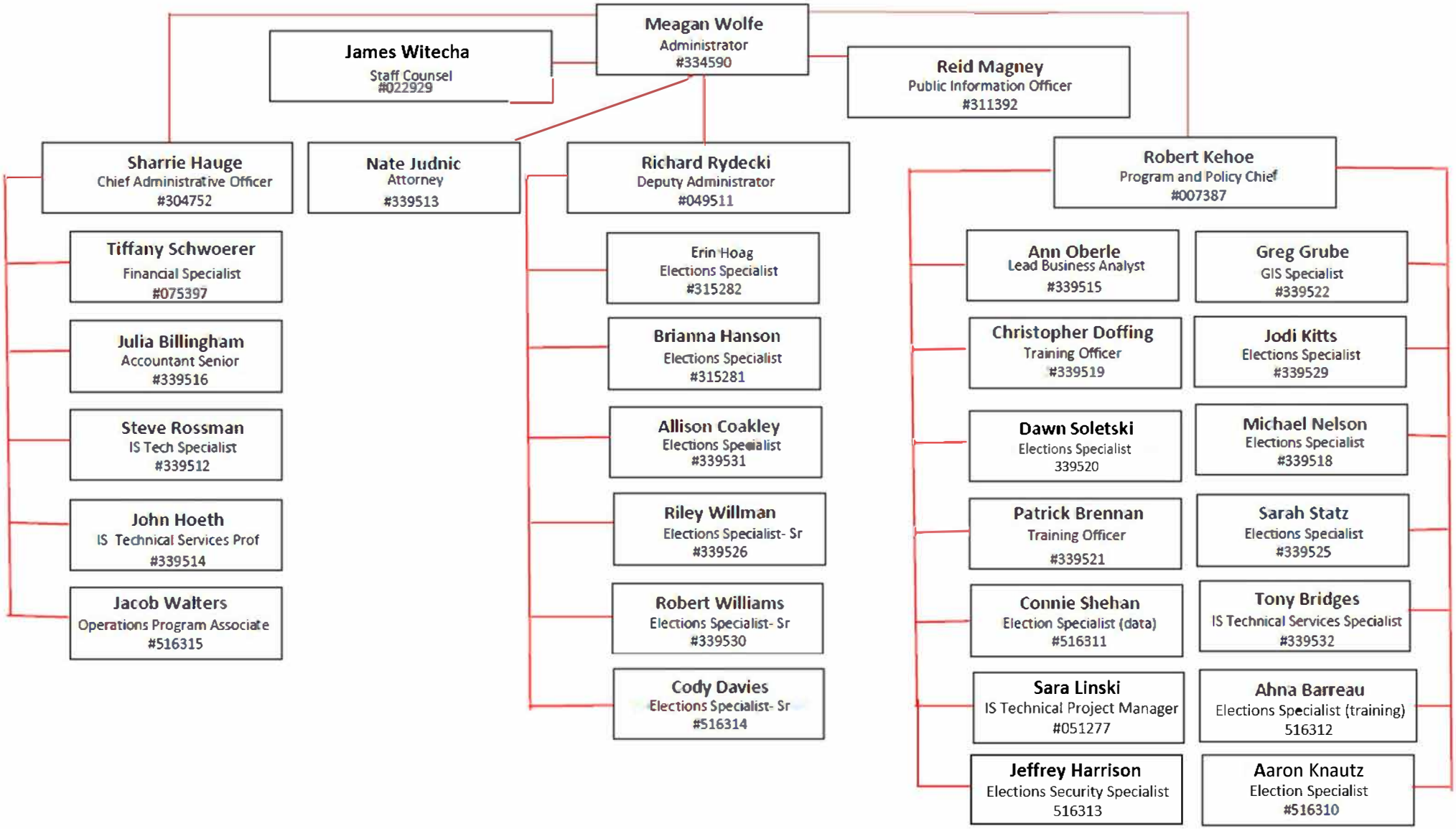
AMERICAN OVERSIGHT

Special Requirements

- Must possess a valid Wisconsin driver's license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.
- Must comply with nonpartisan requirements during employment.
- Ability to travel statewide as required.

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



Effective 01/03/2021

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516314	R2021-010	510

4. NAME OF EMPLOYEE
Cody C. Davies

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Avenue
Third Floor
Madison, WI 53707

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist- Senior

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Riley Willman, Elections Specialist- Senior
Allison Coakley, Elections Specialist- Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
December 2019

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

See Attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	See Attached

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor /s/Richard Rydecki Date 1/15/20121

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 1/15/2021

18. Signature of Human Resources Manager Julie Kisely Date 01/13/2021

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

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PURPOSE OF THIS POSITION DESCRIPTION FORM

Employees and supervisors should be aware of the purpose of the Position Description (PD) before completing the form. The PD is the key document in determining the appropriate classification and FLSA status of a position. It is descriptive of the major goals and worker activities of the position. It is not construed to limit or modify the power of the appointing authority and subordinate supervisors to assign work to employees. However, the appointing authority, subordinate supervisors and employees are responsible for assuring that the work assigned is the work actually performed and that PDs are reasonably current descriptions of the work. It is used as an information source for the development and implementation of an effective recruitment and selection plan if a position becomes vacant. Perhaps most important in the long run, an accurate PD helps the employee know what is expected by clearly defining the work to be performed in relation to the overall goals of the work unit. The PD can also be the basis for identifying training needs and criteria for evaluating performance.

NOTE: The PD is to be filled out by the first-line supervisor or his/her designee. Most of the items are self-explanatory. If you have a question on an item, please contact your agency personnel office. Whenever this PD accompanies a personnel transaction, a current organization chart of the work unit should be included. This chart should show the employees' names, superior-subordinate relationships, classifications and current pay schedules/ranges.

INSTRUCTIONS FOR ITEM 7 (Class Title Option), Item 14 (Position Summary), Item 15 (Goals and Worker Activities), and item 16 (Supervision and Review.

Item 7: **The Class Title Option is to be filled in by the Human Resources Office.** The Class Title Option is not a working title. It is a generic subtitle which has been approved by DPM and is to be used to more specifically identify a position for recruitment, examination and certification or layoff when job analysis has show that the special character and qualifications of the position so necessitate.

Item 14: **Position Summary Statement:** This is a summary of the goals of the position plus additional information that applies to the entire position such as the level of supervision, authority and discretion; the types of contacts; the physical location, or the context (e.g., position in the process flow, formal name and nature of the program, nature of the organization, etc.). (see sample statement on page 3)

Item 15: **DEFINITIONS**

Goals are the expected results of each employee's work. They are the expected accomplishments, product or output that results from the work activities of the employee.

Worker Activities are the specific tasks the employee performs to accomplish the goals. Worker Activity statements describe what a worker actually does.

% Time is the proportion of the employee's total work time spent on a goal or worker activity annually.

INSTRUCTIONS—The steps below should be followed in completing Item 15.

1. List the **goals** of the position in descending order of importance. Each PD will usually contain between two and six goals. Identify each goal by the use of a capital letter as shown on page 3.

2. Under each goal list the **work activities** performed to accomplish sufficient information to make them understandable to a person not familiar with the field of work performed. Avoid indefinite terms such as "handle," "assist," or "process." Generally there will be an average of five worker activities per goal, but there may be as few as two or as many as necessary. Identify each worker activity by the letter of the related goal and the sequential number of worker activity as shown on page 3. If a worker activity relates to more than one goal, the second time it is used you should cross-reference this worker activity by listing the original goal letter and worker activity number (i.e., "A3" in example on page 3) under the goals it relates to.

3. If the position being described is considered to be "confidential," "managerial," or "supervisory" in nature for collective bargaining purposes; you should insure that the goals and worker activities listed explicitly describe this nature of the work.

4. In the % **Time** section, estimate the percentage of time spent working toward each goal annually. The percentages for the goals should add up to 100%. Also, where possible, estimate the percentage of time spent on each worker activity, particularly ones which constitute 10% or more of the total workload. Percentages for worker activities should be based on how much of the total (100%) job is spent on the worker activities and not on how much that worker activity contributes to a single goal.
(SEE ABBREVIATED SAMPLE ON PAGE 3)

Item 16: Check the box which best describes the type of supervision given this position. *"Close"* supervision implies that the work is performed according to detailed instructions and the supervision is available on short notice. *"Limited"* supervision implies that the incumbent proceeds on his/her own initiative while complying with policies, practices and procedures prescribed by the supervisor. The supervisor generally answers only on the more important phases of the work. *"General"* supervision implies that the work is performed independently. The incumbent seldom refers matters to supervisor except for clarification of policy.

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Elections Specialist - Senior

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends. This position leads a significant project area – the testing, approval and auditing of electronic voting systems.

This position leads the Elections Commission's voting systems approval and compliance processes. Prior to being used by municipalities in Wisconsin, any new or modified electronic voting system must be approved by the Commission, after consideration of staff testing and recommendations. This position, in consultation with other team members, will process voting equipment approval applications and will design and implement approval standards and testing protocols for voting equipment. This position will draft reports summarizing the testing protocol, standards, and results, and will make written and verbal presentations to the Commission regarding approval or denial of voting equipment applications.

This position also provides education, training, and technical assistance in the area of voting systems to the Commission's customers and partners, including county and municipal clerks and to the general public. This position is the liaison to voting equipment manufacturers and vendors as well as the United States Election Assistance Commission regarding voting equipment compliance with federal and state laws.

This position is also responsible for conducting the agency's voting systems audit procedures following each general election, and reporting audit results to the Commission. This position will stay current with developments in the area of voting systems technologies and availability, and the equipment needs of Wisconsin municipalities, and advise and make recommendations to agency management and the Commission accordingly.

Under general supervision of the Assistant Administrator, this position functions as part of the election administration team, and is a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position will develop and maintain a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position also regularly participates in conducting public outreach, education, training, technical assistance workshops, seminars, and certification classes for local election officials and members of the public. This position is also responsible for core election administration tasks, including, but not limited to review of state and federal candidate ballot access documents, ballot design and review, and canvass of election results. Further, this position will participate in implementing other initiatives identified by agency management and the Commission.

AMERICAN OVERSIGHT

Duties and Responsibilities

35%

A. Direct the agency's program for approval of electronic voting systems and equipment in compliance with the Help America Vote Act of 2002 Requirements, the Federal Voluntary Voting System Guidelines, and Wisconsin Statutes and Administrative Code.

1. Serve as contact person for voting equipment vendors and manufacturers. Review voting systems applications from equipment manufacturers for State approval to ensure proper reports, manuals and complete specifications for all hardware, firmware and software have been provided.

2. Under general supervision, develop and supervise tests to determine if electronic voting equipment meets statutory requirements, direct the preparation of test ballots, and work directly with vendors and manufacturers during the approval process to ensure that ballots are prepared and printed correctly.

3. Arrange meeting of local election officials and the public for review and demonstration of electronic voting equipment as part of the approval process. Prepare materials for these meetings and plan for necessary presentations.

4. Review and evaluate the results of voting equipment tests and make recommendations for approval of voting systems. Prepare reports and make presentations to agency management and the Commission regarding voting equipment applications for state approval.

5. Review software and hardware updates to existing voting systems and prepare recommendations regarding level of testing required and whether updates may be approved without additional testing.

6. Consult and collaborate with the United States Election Assistance Commission as necessary regarding federal certification programs.

7. Maintain an on-going relationship with certified vendors and manufacturers of voting systems to assist them in the preparation of ballots for actual elections.

8. Communicate with election equipment vendors and manufacturers, other state agencies, representatives from state and national organizations, and the general public on election-related subjects, including interpretation of laws, administrative rules, and Commission policies regarding voting systems.

9. Maintain agency records of the type of voting equipment used by each municipality. Provide information and respond to inquiries concerning approved voting equipment and supplies.

10. Assist with the development of administrative rules, criteria, and standards for certification and use of voting equipment.

15%

B. Develop and Manage Implementation of Pre-Election Testing and Post-Election Voting Systems Audit Procedures.

AMERICAN OVERSIGHT

1. Consult with elections administration program staff to determine the appropriate monitoring and assessment standards for verifying local election officials' compliance with agency policies and standards regarding the testing of voting systems before, during and after an election, and the auditing of voting systems after each general election.

2. Under general supervision, develop and implement standards and procedures for auditing the performance of voting systems after each general election. At a minimum the policy, standards and procedures should include:

   - A summary of the process (criteria) to be used to randomly select municipalities to be audited.
   - A procedure for notifying the selected municipality of the impending audit, preparing materials, documents and specified information needed for the audit.
   - A timeline for commencing and concluding the audit, and a time period for requiring the audit report to be submitted.
   - Recommendations to refine internal procedures for conducting post-election audits of voting systems used on Election Day.
   - A procedure for validating pre-election testing of voting systems conducted by municipal clerks.
   - A format for creating sample test decks to be used by municipal clerks for pre-election testing of electronic voting systems
   - A format for sharing audit findings and recommendations with municipal and county clerks and local governing bodies.
   - A process for monitoring compliance with audit findings and recommendations and resolving disputes.

3. Following each audit, prepare a report on the audit findings to agency management and the Commission.

4. Develop a process and procedure for ensuring compliance with the procedures for ballot and electronic voting system security, proposed in Administrative Code, Chapter 5.

30%

C. Assist with other Election Administration Functions of the Agency as Required.

1. As necessary, assist with core election administration tasks including the review of nomination papers or other election petitions.

2. Under general supervision, communicate with legislators, candidates, political registrants, media representatives, other state agencies, representatives from state and national organizations, and the general public on all election-related subjects, including interpretation of laws, administrative rules, and Commission policies.

AMERICAN OVERSIGHT

3. Under general supervision, participate in the provision of election administration education, training, technical assistance and public outreach to local election officials and members of the public.

4. Conduct research and analysis on new legislative initiatives as they pertain to the administration of elections, assist with compiling data for the preparation of fiscal notes on election-related legislation, and draft responses to inquiries from elected officials, local election officials, and the public.

5. Conduct research and analysis of post-election audit methods and make recommendations to agency staff and management regarding procedures for implementation of a system compatible with Wisconsin election law and administrative procedures.

6. Make oral presentations in-person and via various electronic means to county and municipal clerks and election inspectors concerning election administration issues.

7. Carry out special projects and assignments as directed by agency management.

5%

D. Provide Technical Assistance to users of the statewide voter registration system, WisVote and Monitor Quality Control of WisVote Tasks

1. Provide technical assistance and customer support to Local Election Officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by Local Election Officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

AMERICAN OVERSIGHT

15%

E. Direct agency's program for the development and support of the electronic poll book system.

1. Serve as the co-project lead for the electronic poll book program.

2. Coordinate continued system software development and updates.

3. Create and update training materials for users of the system.

4. Apply relevant federal and state election laws and administrative rules to the functionality of the system.

5. Coordinate the addition of new users of the system and organize the onboarding process.

6. Provide customer service and support for system users.

Required Knowledge, Skills, and Abilities

1. Ability to understand basic operating functions of electronic voting equipment systems and technology.

2. High-level knowledge of federal and state election laws, administrative rules, Commission policies, and business processes as they relate to election administration.

3. Strong analytical and strategic planning skills; ability to plan, organize, prioritize and manage tasks

4. Strong communication skills; ability to speak and write effectively.

5. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.

6. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

7. Ability to demonstrate initiative and independence in carrying out assigned tasks.

8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

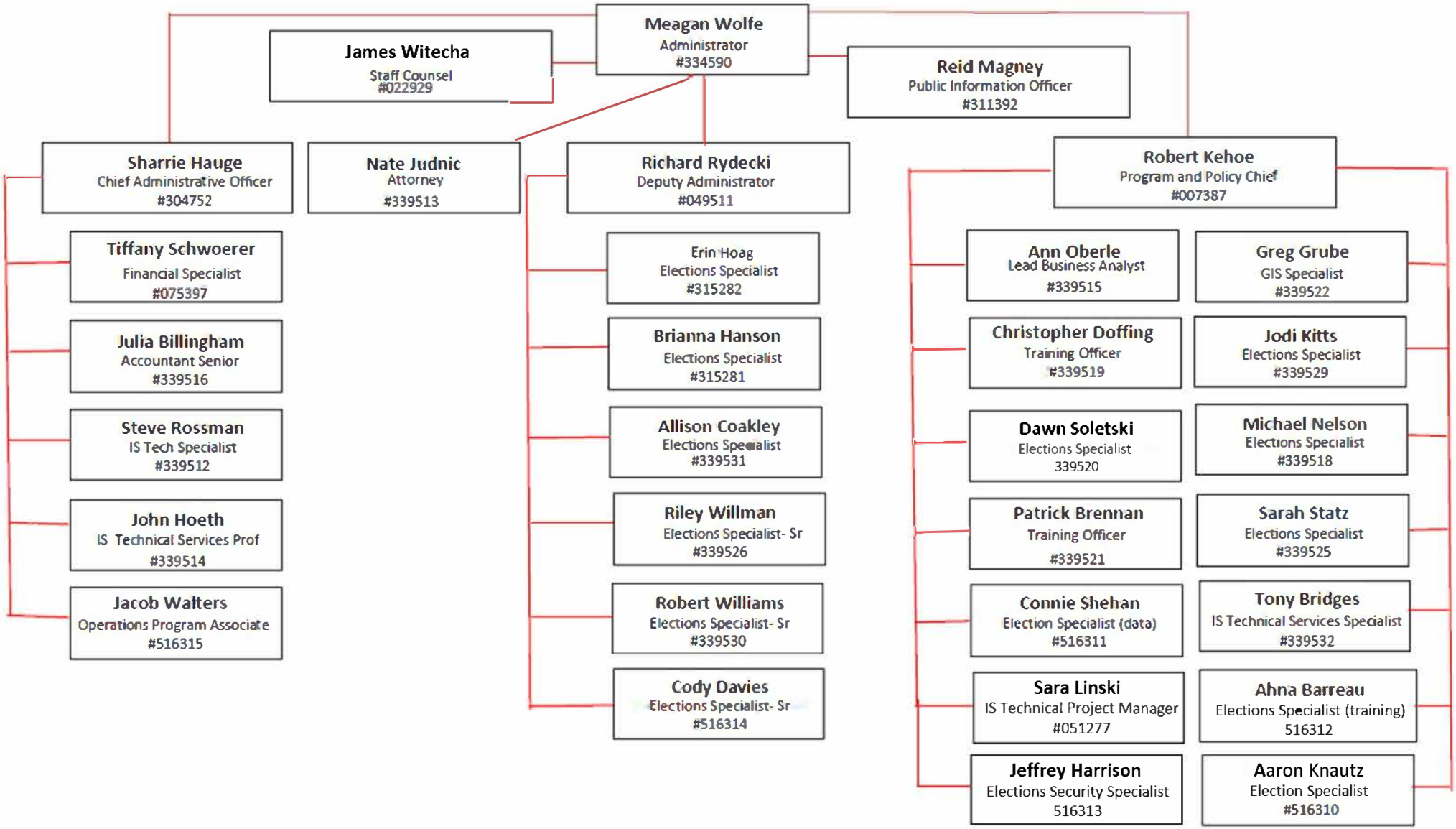
AMERICAN OVERSIGHT

Special Requirements

- Must possess a valid Wisconsin driver's license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.
- Must comply with nonpartisan requirements during employment.
- Ability to travel statewide as required.

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



Effective 01/03/2021

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339520	ATTH200161	510

4. NAME OF EMPLOYEE
Dawn Soletski

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave., 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Entry

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Michelle Hawley, Staff Development Program Specialist

9. AGENCY WORKING TITLE OF POSITION
Training Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Ahna Barreau, Elections Specialist

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

See attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See attached.

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ◉ limited ○ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor RK Date 9/11/2020

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee Dawn M Soletski Date 1-5-2021

18. Signature of Human Resources Manager ~~Kristina Thole~~ Digitally signed by Kristina Thole Date: 2020.09.16 08:06:29 -05'00' Date

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Entry

#339520

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends.

This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. The position may also conduct in-person and online workshops, seminars and classes for users of the WisVote system and related applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

Duties and Responsibilities

35%

A. With guidance from the Technology Director and Senior Staff, participate in the provision of election education, training, technical assistance and public outreach to local election officials and members of the public.

1. Maintain knowledge of WisVote and contribute to system updates and maintenance.

2. Assist in determining the most effective training platform for specific subject matter.

3. Develop, prepare and update WisVote training webinars, videos, manuals, training exercises and related training materials.

AMERICAN OVERSIGHT

4. Review WisVote training programs and recommend changes, revisions, updates and modification.

5. Coordinate production of on-line training materials in coordination with WEC staff, customers and partners.

6. Produce and publish step-by-step instructions for WisVote processes using electronic documents, online platforms, and online content management systems.

7. Develop, edit, and post online training videos and tutorials.

8. Incorporate election laws and procedures into training materials for local election officials.

9. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations and solicit their feedback and input regarding election administration procedures and requirements.

10. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

30%

B. Provide Technical Assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

25%

C. Technical Assistance and Quality Control of WisVote

AMERICAN OVERSIGHT

9. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

10. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

11. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

12. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

13. Assist WisVote users in the development and use of customized reports to meet office needs.

14. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

15. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

10%

D. Carry out special projects and assignments as directed by the Technology Director

1. Act as team member or team lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

2. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

3. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Experience communicating effectively through various electronic media, written communications, and in-person presentations.

2. Experience applying adult education principles and practices.

3. Substantial experience creating electronic training for web-based systems or applications.

4. Experience providing technical support for web-based applications.

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5. Ability to conduct research, gather information, and analyze a variety of data.

6. Knowledge of training needs assessments, evaluation, and analysis techniques.

7. Ability to become proficient in the WisVote statewide voter registration system and related applications.

8. Ability to plan, organize, prioritize and manage tasks.

9. Must be able to travel as required.

10. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

11. Must comply with agency nonpartisan conduct requirements.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

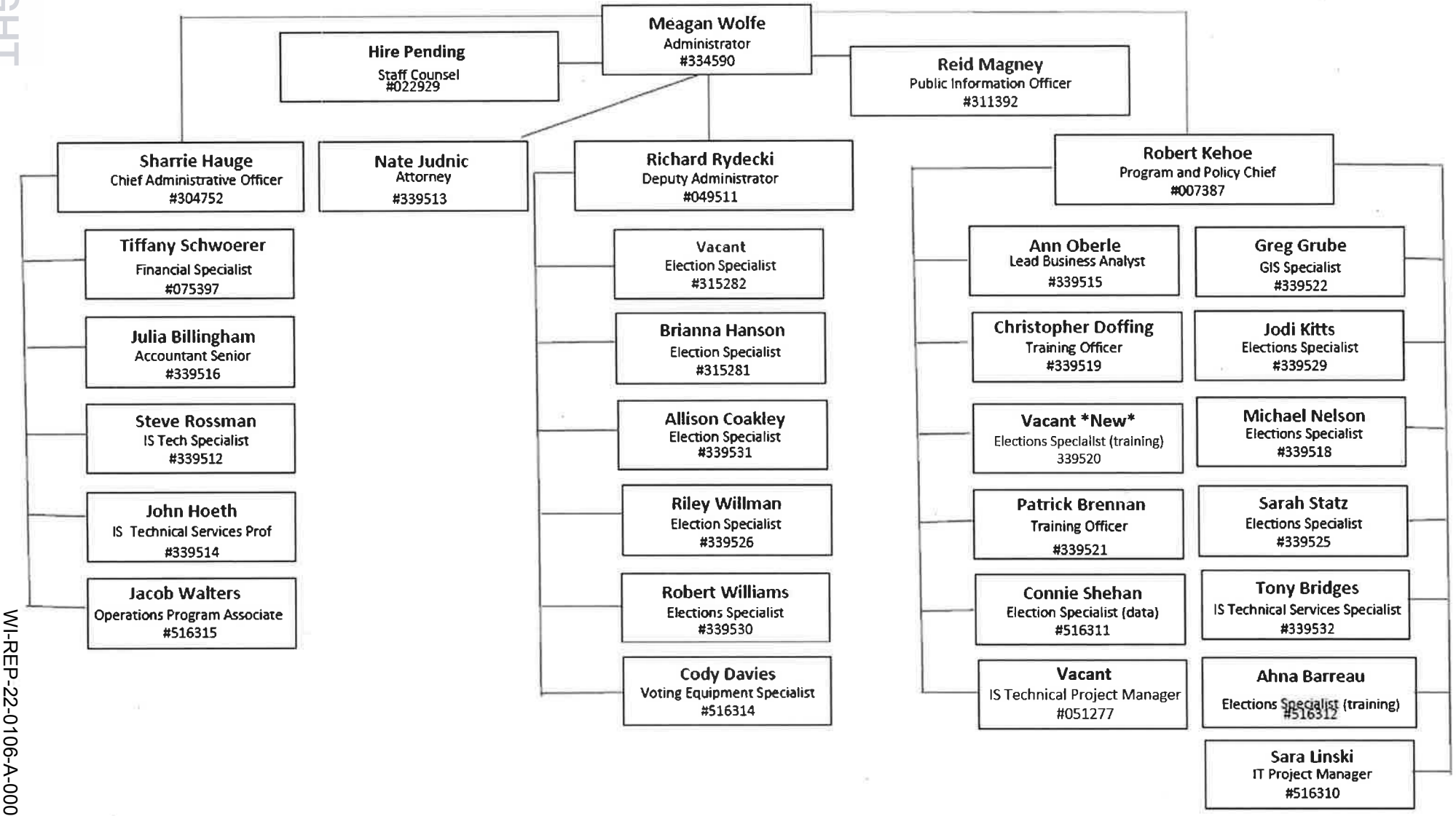
- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000583

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339520	ATTH200161	510

4. NAME OF EMPLOYEE
Dawn Soletski

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave., 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Entry

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Michelle Hawley, Staff Development Program Specialist

9. AGENCY WORKING TITLE OF POSITION
Training Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Ahna Barreau, Elections Specialist

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

See attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See attached.

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ◉ limited ○ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor RK Date 9/11/2020

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee Dawn M Soletski Date 1-5-2021

18. Signature of Human Resources Manager ~~Kristina Thole~~ Digitally signed by Kristina Thole Date: 2020.09.16 08:06:29 -05'00' Date

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Entry

#339520

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends.

This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. The position may also conduct in-person and online workshops, seminars and classes for users of the WisVote system and related applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

Duties and Responsibilities

35%

A. With guidance from the Technology Director and Senior Staff, participate in the provision of election education, training, technical assistance and public outreach to local election officials and members of the public.

1. Maintain knowledge of WisVote and contribute to system updates and maintenance.

2. Assist in determining the most effective training platform for specific subject matter.

3. Develop, prepare and update WisVote training webinars, videos, manuals, training exercises and related training materials.

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4. Review WisVote training programs and recommend changes, revisions, updates and modification.

5. Coordinate production of on-line training materials in coordination with WEC staff, customers and partners.

6. Produce and publish step-by-step instructions for WisVote processes using electronic documents, online platforms, and online content management systems.

7. Develop, edit, and post online training videos and tutorials.

8. Incorporate election laws and procedures into training materials for local election officials.

9. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations and solicit their feedback and input regarding election administration procedures and requirements.

10. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

30%

B. Provide Technical Assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

25%

C. Technical Assistance and Quality Control of WisVote

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9. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

10. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

11. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

12. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

13. Assist WisVote users in the development and use of customized reports to meet office needs.

14. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

15. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

10%

D. Carry out special projects and assignments as directed by the Technology Director

1. Act as team member or team lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

2. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

3. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Experience communicating effectively through various electronic media, written communications, and in-person presentations.

2. Experience applying adult education principles and practices.

3. Substantial experience creating electronic training for web-based systems or applications.

4. Experience providing technical support for web-based applications.

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5. Ability to conduct research, gather information, and analyze a variety of data.

6. Knowledge of training needs assessments, evaluation, and analysis techniques.

7. Ability to become proficient in the WisVote statewide voter registration system and related applications.

8. Ability to plan, organize, prioritize and manage tasks.

9. Must be able to travel as required.

10. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

11. Must comply with agency nonpartisan conduct requirements.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

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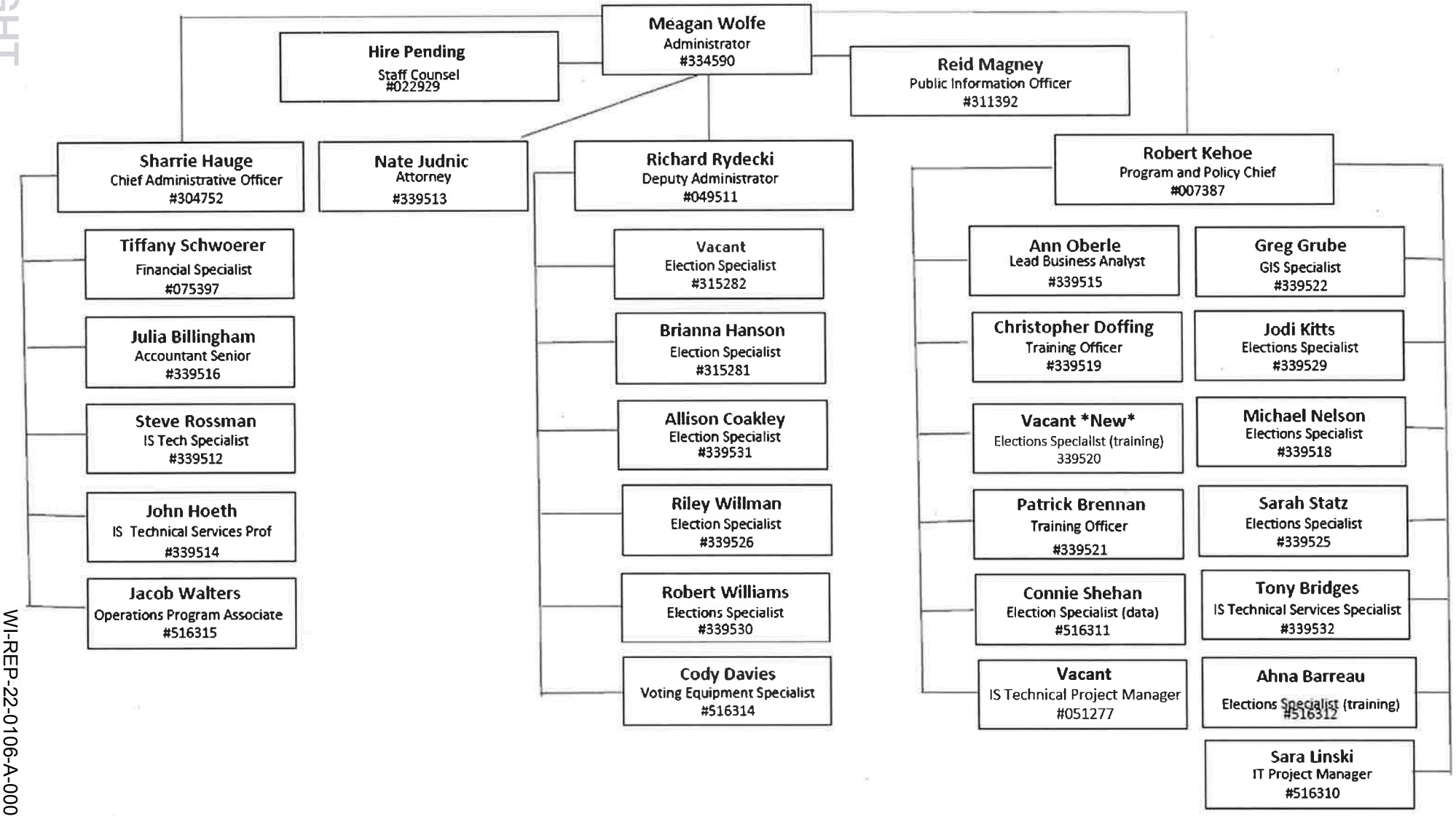
WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000589

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339519		510

4. NAME OF EMPLOYEE
Christopher S. Doffing

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Staff Development Program Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
Elections Training Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Technology Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
08/2017

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

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— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	SEE ATTACHED

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ⊘ limited ○ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 6/7/19

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 6/7/19

18. Signature of Human Resources Manager _____ Date _____

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WISCONSIN ELECTIONS COMMISSION
Staff Development Program Specialist
(Elections Training Officer)

POSITION SUMMARY

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends.

This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. The position may also conduct in-person and online workshops, seminars and classes for users of the WisVote system and related applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

Duties and Responsibilities

50%

A. Create and produce training webinars, tutorials and materials for the WisVote system and related applications.

1. Maintain knowledge of WisVote and contribute to system updates and maintenance.

2. Assist in determining the most effective training platform for specific subject matter.

3. Develop, prepare and update WisVote training webinars, videos, manuals, training exercises and related training materials.

4. Review WisVote training programs and recommend changes, revisions, updates and modification.

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5. Coordinate production of on-line training materials in coordination with WEC staff, customers and partners.

6. Produce and publish step-by-step instructions for WisVote processes using electronic documents, online platforms, and online content management systems.

7. Develop, edit, and post online training videos and tutorials.

8. Incorporate election laws and procedures into training materials for local election officials.

35%

A. Provide Technical Assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

15%

C. Participate in general elections administration and other agency duties as assigned.

1. Research and analyze legislative initiatives to assess impact on agency systems and procedures.

2. Draft fiscal analysis and legislative status reports.

3. Draft and present materials for the Agency's Commission members and Commission Meetings.

Required Knowledge, Skills, and Abilities

1. Experience communicating effectively through various electronic media, written communications, and in-person presentations.

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2. Experience applying adult education principles and practices.

3. Substantial experience creating electronic training for web-based systems or applications.

4. Experience providing technical support for web-based applications.

5. Ability to conduct research, gather information, and analyze a variety of data.

6. Knowledge of training needs assessments, evaluation, and analysis techniques.

7. Ability to become proficient in the WisVote statewide voter registration system and related applications.

8. Ability to plan, organize, prioritize and manage tasks.

9. Must be able to travel as required.

10. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

11. Must comply with agency nonpartisan conduct requirements.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339519		510

4. NAME OF EMPLOYEE
Christopher S. Doffing

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Staff Development Program Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
Elections Training Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Technology Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
08/2017

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

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TIME %	GOALS AND WORKER ACTIVITIES	(Continue on attached sheets)
	SEE ATTACHED	

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(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 6/7/19

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 6/7/19

18. Signature of Human Resources Manager _____ Date _____

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Staff Development Program Specialist
(Elections Training Officer)

POSITION SUMMARY

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

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This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. The position may also conduct in-person and online workshops, seminars and classes for users of the WisVote system and related applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

Duties and Responsibilities

50%

A. Create and produce training webinars, tutorials and materials for the WisVote system and related applications.

1. Maintain knowledge of WisVote and contribute to system updates and maintenance.

2. Assist in determining the most effective training platform for specific subject matter.

3. Develop, prepare and update WisVote training webinars, videos, manuals, training exercises and related training materials.

4. Review WisVote training programs and recommend changes, revisions, updates and modification.

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5. Coordinate production of on-line training materials in coordination with WEC staff, customers and partners.

6. Produce and publish step-by-step instructions for WisVote processes using electronic documents, online platforms, and online content management systems.

7. Develop, edit, and post online training videos and tutorials.

8. Incorporate election laws and procedures into training materials for local election officials.

35%

A. Provide Technical Assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

15%

C. Participate in general elections administration and other agency duties as assigned.

1. Research and analyze legislative initiatives to assess impact on agency systems and procedures.

2. Draft fiscal analysis and legislative status reports.

3. Draft and present materials for the Agency's Commission members and Commission Meetings.

Required Knowledge, Skills, and Abilities

1. Experience communicating effectively through various electronic media, written communications, and in-person presentations.

AMERICAN OVERSIGHT

2. Experience applying adult education principles and practices.

3. Substantial experience creating electronic training for web-based systems or applications.

4. Experience providing technical support for web-based applications.

5. Ability to conduct research, gather information, and analyze a variety of data.

6. Knowledge of training needs assessments, evaluation, and analysis techniques.

7. Ability to become proficient in the WisVote statewide voter registration system and related applications.

8. Ability to plan, organize, prioritize and manage tasks.

9. Must be able to travel as required.

10. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

11. Must comply with agency nonpartisan conduct requirements.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339522		510

4. NAME OF EMPLOYEE
GRUBE, GREGORY

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Election Specialist, Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
GIS Elections Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
7/1/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

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— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See attached.

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 2/20/19

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 3/20/19

18. Signature of Human Resources Manager _____ Date _____

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☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

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NEW

Wisconsin Elections Commission

Position Description
Elections Specialist, Senior
(GIS Elections Specialist)
#339522

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

An important aspect of this position is to provide support to Local Election Officials on the use of mapping tools available in the Commission's systems, and to continuously improve the accuracy and currency of Geographic Information Systems (GIS) data within those systems. This includes outreach with local GIS sources, analyzing and maintaining geographic information using standard GIS tools, and assisting local election officials in the use of mapping tools. These duties ensure that residences of voters are included in the correct electoral jurisdictions and their names appear in the proper poll books.

This position participates in developing a protocol to be used by the Election Commission team for delivering education, training and technical assistance to local election officials, and will conduct trainings for users of the statewide voter registration system called WisVote, especially with regard to the use of GIS mapping tools for the administration of elections. This position is responsible for interpreting election laws, administrative rules, and Board policies in carrying out a variety of functions and will participate in implementing an array of elections program goals and project plans. This position will require occasional travel within Wisconsin from the agency headquarters in Wisconsin.

40%

A. **Leads Agency GIS projects in design, testing, implementation, and maintenance of large-scale GIS applications, tools, and associated databases supporting Wisconsin elections.**

1. Work with Wisconsin state agency Geographic Information coordinators, county Land Information Offices (LIOs), municipal and county GIS staff, regional planning commissions, University Extension offices, and other geographic organizations to obtain current and accurate geographic information for electoral districts, address points, and other relevant GIS information.

2. Analyze geographic information obtained by outside sources using standard GIS tools to assess accuracy and usability. Standardize geographic data such that it can be imported into the Commission's systems.

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3. Create new geographic information layers using standard GIS tools. Modify geographic information obtained from local sources to create layers for data that is not directly available, and to keep existing layers current and accurate.

4. Work in concert with the Technical Team to load new and updated geographic information into the Commission's systems. Provide quality assurance and troubleshooting of geographic information to ensure accuracy.

5. Coordinate with local GIS sources on corrections and updates to geographic layers, such as annexations, detachments, incorporations, or to resolve incidents reported by local election officials.

6. Research and recommend improvements to the mapping tools provided in the Commission's systems including mapping, address validation, and assignment of voters to municipalities and district combinations. Research and recommend GIS toolsets to improve the maintenance of geographic information within the Commission's systems.

7. Provide advanced support to Local Election Officials and users regarding the mapping tools provided in the Commission's systems. Assist in the development and maintenance of training materials to users on the use of mapping tools in the Commission's systems.

30%

B. **With minimal supervision, provide GIS Technical Assistance to Users of WisVote, the Statewide Voter Registration System.**

1. Provide technical assistance and customer support to Local Election Officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by Local Election Officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

AMERICAN OVERSIGHT

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

15%

C. **Plan, configure, test, and maintain large-scale GIS applications and associated backend processing modules to enhance the accuracy of Elections Commission geographic data.**

1. Design and develop complex cartographic representations of GIS data to complete complex mapping tasks in support of agency needs; design and develop cartographic standards for use by other agency staff.

2. Participate in the development of GIS database architectures, naming conventions, and standards; identify data requirements and multi-agency data sources; develop data models and database designs for geospatial data.

3. Create, edit, and manage spatial data to create and maintain enterprise GIS data repositories.

4. Coordinate the exchange of large-scale data sets with other agencies and integrate data from multiple internal and external sources.

5. Convert complex addresses into GIS formats making advanced use of geocoding routines; implement complex geocoding algorithms and procedures to achieve a high degree of data accuracy.

6. Lead the research and evaluation of new GIS and data management technologies to evaluate their potential and compatibility with agency needs and technical environment.

5%

D. **With limited supervision, plan and conduct training events for county clerks, municipal clerks, election inspectors and WEC staff.**

1. Independently assess Local Election Officials' election administration education, training and technical assistance needs in order to advise staff Training Officers.

2. Monitor compliance of Local Election Officials with the agency Election Calendar, WisVote Checklists, and election and voter participation data requirements in accordance with established timelines.

3. Monitor and track status of election activities and ensure Local Election Officials' compliance.

AMERICAN OVERSIGHT

4. Consult and collaborate with agency Training Officer to respond to Local Election Officials' training requests.

5%

E. Participate in Implementation of the Agency's Election Administration Plan and Management Goals

1. Independently assist Wisconsin electors as required to resolve addressing or other geographic issues.
2. Carry out WisVote initiatives and other activities included in the agency's Election Administration Plan and management goals.
3. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.
4. Assist in drafting fiscal analysis and legislative status reports.
5. Develop background information, testimony and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.
6. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public involving election administration program implementation.
7. Develop and maintain a high-level working knowledge of the Election Commission's core business requirements related to both WisVote functionalities and Election Administration tasks and initiatives.
8. Carry out special projects and assignments as directed by supervisor and/or agency management.

5%

F. Maintain currency in knowledge of GIS tools, processes, and best practices.

1. Represent the Commission as appropriate within the Federal, State, and local GIS community.
2. Participate in GIS associations, consortiums and other forums to maintain relationships within the GIS community.

Required Knowledge, Skills, and Abilities

1. Understanding of the conceptual foundations on which GIS are based, including the problem of representing change over time and the imprecision and uncertainty that characterizes all geographic information.
2. Knowledge of georeferencing systems, including coordinate systems, spatial projects, and horizontal and vertical datums.

AMERICAN OVERSIGHT

3. Detailed familiarity with the use of computer coding to process, analyze, and represent spatial information.

4. Familiarity with GIS analytical methods and spatial data models, including the nature of vector, raster, grid, TIN, topological, hierarchical, network, and object-oriented models.

5. Knowledge of planar geometry, algebra, and statistics.

6. Demonstrated experience with information systems methodologies, tools and techniques.

7. Ability to develop substantial familiarity with and a working knowledge of election laws, administrative rules and Board policies, methods and procedures as they related to election administration.

8. Knowledge of training techniques. Ability to apply comprehensive knowledge of adult education concepts as well as workplace training theory, principles and practices.

9. Strong analytical and strategic planning skills; ability to plan, organize, prioritize and manage tasks

10. Strong communication skills; ability to speak and write effectively.

11. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.

12. Ability to demonstrate good professional demeanor and a consistently pleasant personality.

13. Proficient in Microsoft Office Suite.

14. Able to travel as required.

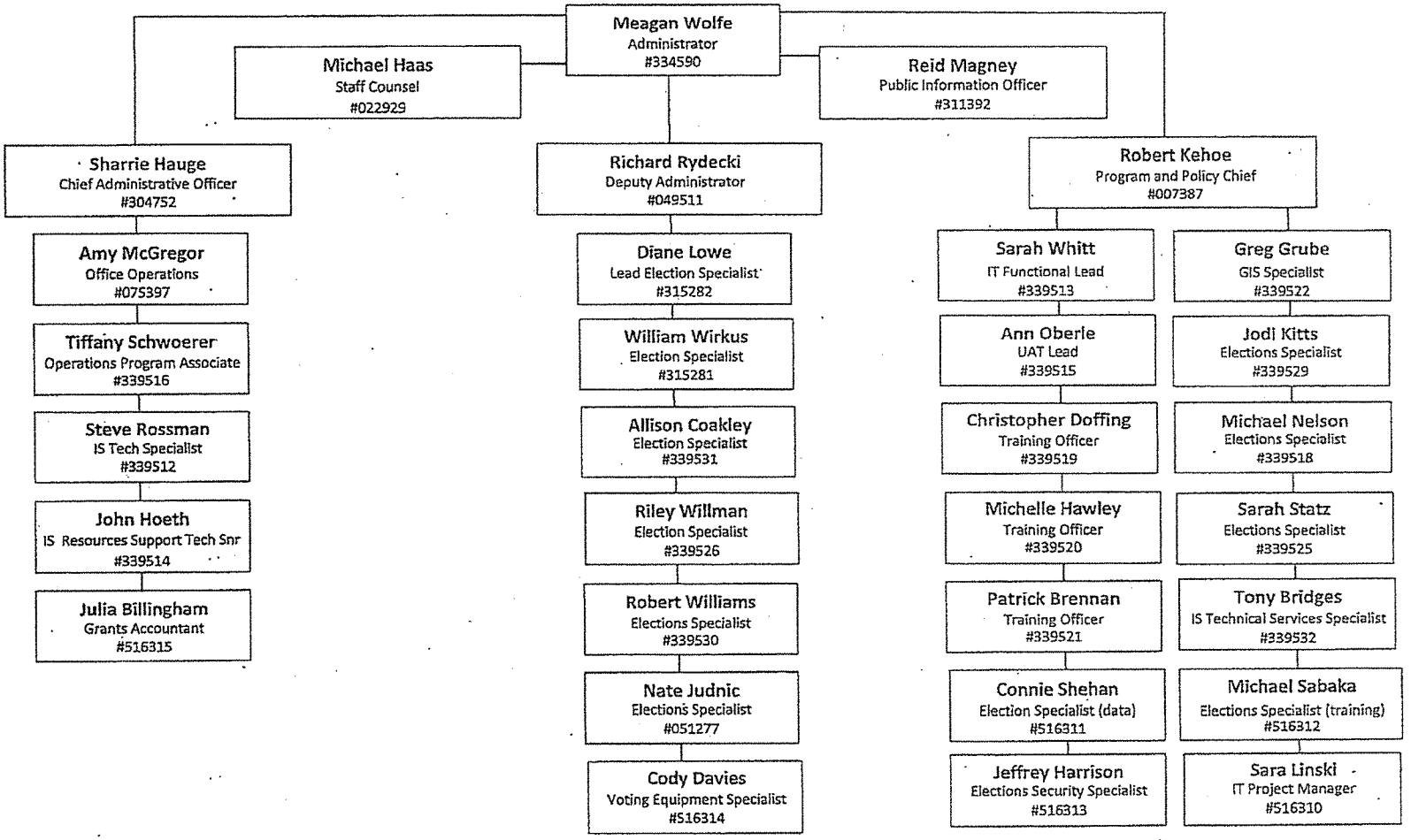
Special Requirements:
The selected candidate also must not have given a political contribution to a candidate for a partisan state or local office in the twelve months prior to appointment and must comply with the agency's nonpartisan requirements during employment.

Must possess a valid Wisconsin driver license that meets the State's Risk Management requirements.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000604

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339522		510

4. NAME OF EMPLOYEE
GRUBE, GREGORY

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Election Specialist, Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
GIS Elections Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
7/1/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See attached.

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 2/20/19

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 3/20/19

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

NEW

Wisconsin Elections Commission

Position Description
Elections Specialist, Senior
(GIS Elections Specialist)
#339522

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

An important aspect of this position is to provide support to Local Election Officials on the use of mapping tools available in the Commission's systems, and to continuously improve the accuracy and currency of Geographic Information Systems (GIS) data within those systems. This includes outreach with local GIS sources, analyzing and maintaining geographic information using standard GIS tools, and assisting local election officials in the use of mapping tools. These duties ensure that residences of voters are included in the correct electoral jurisdictions and their names appear in the proper poll books.

This position participates in developing a protocol to be used by the Election Commission team for delivering education, training and technical assistance to local election officials, and will conduct trainings for users of the statewide voter registration system called WisVote, especially with regard to the use of GIS mapping tools for the administration of elections. This position is responsible for interpreting election laws, administrative rules, and Board policies in carrying out a variety of functions and will participate in implementing an array of elections program goals and project plans. This position will require occasional travel within Wisconsin from the agency headquarters in Wisconsin.

40%

A. **Leads Agency GIS projects in design, testing, implementation, and maintenance of large-scale GIS applications, tools, and associated databases supporting Wisconsin elections.**

1. Work with Wisconsin state agency Geographic Information coordinators, county Land Information Offices (LIOs), municipal and county GIS staff, regional planning commissions, University Extension offices, and other geographic organizations to obtain current and accurate geographic information for electoral districts, address points, and other relevant GIS information.

2. Analyze geographic information obtained by outside sources using standard GIS tools to assess accuracy and usability. Standardize geographic data such that it can be imported into the Commission's systems.

AMERICAN OVERSIGHT

3. Create new geographic information layers using standard GIS tools. Modify geographic information obtained from local sources to create layers for data that is not directly available, and to keep existing layers current and accurate.

4. Work in concert with the Technical Team to load new and updated geographic information into the Commission's systems. Provide quality assurance and troubleshooting of geographic information to ensure accuracy.

5. Coordinate with local GIS sources on corrections and updates to geographic layers, such as annexations, detachments, incorporations, or to resolve incidents reported by local election officials.

6. Research and recommend improvements to the mapping tools provided in the Commission's systems including mapping, address validation, and assignment of voters to municipalities and district combinations. Research and recommend GIS toolsets to improve the maintenance of geographic information within the Commission's systems.

7. Provide advanced support to Local Election Officials and users regarding the mapping tools provided in the Commission's systems. Assist in the development and maintenance of training materials to users on the use of mapping tools in the Commission's systems.

30%

B. **With minimal supervision, provide GIS Technical Assistance to Users of WisVote, the Statewide Voter Registration System.**

1. Provide technical assistance and customer support to Local Election Officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by Local Election Officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

AMERICAN OVERSIGHT

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

15%

C. **Plan, configure, test, and maintain large-scale GIS applications and associated backend processing modules to enhance the accuracy of Elections Commission geographic data.**

1. Design and develop complex cartographic representations of GIS data to complete complex mapping tasks in support of agency needs; design and develop cartographic standards for use by other agency staff.

2. Participate in the development of GIS database architectures, naming conventions, and standards; identify data requirements and multi-agency data sources; develop data models and database designs for geospatial data.

3. Create, edit, and manage spatial data to create and maintain enterprise GIS data repositories.

4. Coordinate the exchange of large-scale data sets with other agencies and integrate data from multiple internal and external sources.

5. Convert complex addresses into GIS formats making advanced use of geocoding routines; implement complex geocoding algorithms and procedures to achieve a high degree of data accuracy.

6. Lead the research and evaluation of new GIS and data management technologies to evaluate their potential and compatibility with agency needs and technical environment.

5%

D. **With limited supervision, plan and conduct training events for county clerks, municipal clerks, election inspectors and WEC staff.**

1. Independently assess Local Election Officials' election administration education, training and technical assistance needs in order to advise staff Training Officers.

2. Monitor compliance of Local Election Officials with the agency Election Calendar, WisVote Checklists, and election and voter participation data requirements in accordance with established timelines.

3. Monitor and track status of election activities and ensure Local Election Officials' compliance.

AMERICAN OVERSIGHT

4. Consult and collaborate with agency Training Officer to respond to Local Election Officials' training requests.

5%

E. Participate in Implementation of the Agency's Election Administration Plan and Management Goals

1. Independently assist Wisconsin electors as required to resolve addressing or other geographic issues.
2. Carry out WisVote initiatives and other activities included in the agency's Election Administration Plan and management goals.
3. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.
4. Assist in drafting fiscal analysis and legislative status reports.
5. Develop background information, testimony and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.
6. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public involving election administration program implementation.
7. Develop and maintain a high-level working knowledge of the Election Commission's core business requirements related to both WisVote functionalities and Election Administration tasks and initiatives.
8. Carry out special projects and assignments as directed by supervisor and/or agency management.

5%

F. Maintain currency in knowledge of GIS tools, processes, and best practices.

1. Represent the Commission as appropriate within the Federal, State, and local GIS community.
2. Participate in GIS associations, consortiums and other forums to maintain relationships within the GIS community.

Required Knowledge, Skills, and Abilities

1. Understanding of the conceptual foundations on which GIS are based, including the problem of representing change over time and the imprecision and uncertainty that characterizes all geographic information.
2. Knowledge of georeferencing systems, including coordinate systems, spatial projects, and horizontal and vertical datums.

AMERICAN OVERSIGHT

3. Detailed familiarity with the use of computer coding to process, analyze, and represent spatial information.

4. Familiarity with GIS analytical methods and spatial data models, including the nature of vector, raster, grid, TIN, topological, hierarchical, network, and object-oriented models.

5. Knowledge of planar geometry, algebra, and statistics.

6. Demonstrated experience with information systems methodologies, tools and techniques.

7. Ability to develop substantial familiarity with and a working knowledge of election laws, administrative rules and Board policies, methods and procedures as they related to election administration.

8. Knowledge of training techniques. Ability to apply comprehensive knowledge of adult education concepts as well as workplace training theory, principles and practices.

9. Strong analytical and strategic planning skills; ability to plan, organize, prioritize and manage tasks

10. Strong communication skills; ability to speak and write effectively.

11. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.

12. Ability to demonstrate good professional demeanor and a consistently pleasant personality.

13. Proficient in Microsoft Office Suite.

14. Able to travel as required.

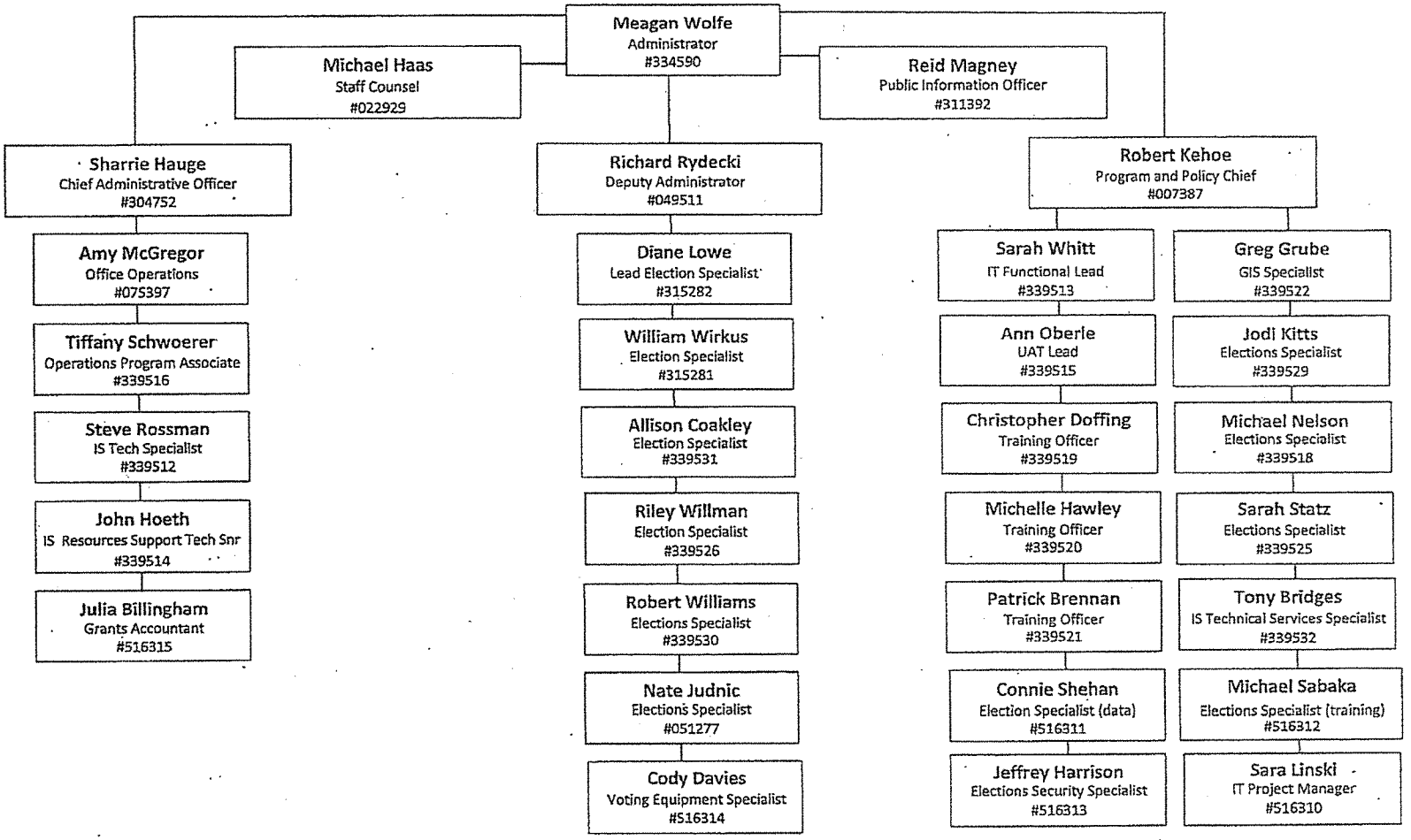
Special Requirements:
The selected candidate also must not have given a political contribution to a candidate for a partisan state or local office in the twelve months prior to appointment and must comply with the agency's nonpartisan requirements during employment.

Must possess a valid Wisconsin driver license that meets the State's Risk Management requirements.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000611

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516313	R2021-103	510

4. NAME OF EMPLOYEE
Jeffrey C. Harrison

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E. washington Ave. Third Floor
Madison, WI 53707

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist- Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION
Elections Data Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Greg Grube, Elections Specialist- Senior
Sarah Statz, Elections Specialist- Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
11/1/2020

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See Attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See Attached

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 8/6/21

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 8/6/21

18. Signature of Human Resources Manager Julie Kisely Date 8/6/2021

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Elections Specialist – Senior
Position # 516313
Elections Data Specialist

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system called WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position would focus primarily on monitoring data quality and user compliance in the WisVote system. There are 3,000 users of the WisVote system, and this position will monitor user activity and correspond with non-compliant municipalities and also review and detect data quality issues in the system. It is responsible for understanding and applying relevant election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation to business procedures used to record and manage data in the WisVote system.

The position is also responsible for providing support related to several other Commission election data initiatives. It is responsible for managing technical functions of the Badger Book program, Wisconsin's ePollbook system servicing over 500,000 voters. This position serves as the primary project lead for communicating with local election officials to collect required Badger Book data. This position is also responsible for coordinating Absentee Voting module data quality, development, and testing.

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. This position will assist with another core function of the Commission and provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Wisconsin.

Duties and Responsibilities

40%

A. Maintain agency quality control standards for data and tasks in the statewide voter registration system to include programs that provide public access to data in accordance with Wis. Stat. section 6.36, and to provide technical assistance to system users.

AMERICAN OVERSIGHT

1. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials and the Wisconsin Elections Commission.

2. Provide technical assistance and customer support to local election officials, candidates, political parties, and members of the general public in regard to accessing data in the statewide voter registration database.

3. Under general supervision, advise and assist county and municipal election officials on the processing, submission, and reconciliation of all election data.

4. Research, develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Guide and assist WisVote users in the development and use of customized reports to meet office needs.

6. Guide and assist WisVote technical staff with the testing of program upgrades and new functionalities for the Absentee Voting module.

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

30%

B. Lead the Commission's Badger Book ePollbook data handling efforts in collaboration with management, program staff, and the agency's IT team.

1. Document standard procedures for the Commission data collection efforts.

2. Develop automated data validation procedures to improve data quality in Badger Book ePollbook systems.

3. Lead and conduct data reconciliation and audit efforts between the Commission's data management systems (e.g., WEDCS, WisVote, CRS, and others).

4. Manage the collection of election administration and voting statistics for all state and federal elections through agency data collection systems.

5. Publish elections-related data and statistics electronically, including those related to voter registration, absentee voting, military and permanent absentee voters, election day registration, elections results, polling place information, and election voter turnout.

6. Assist in completing federal reporting requirements such as the U.S. EAC's election administration and voting survey (EAVS).

AMERICAN OVERSIGHT

7. Conduct surveys of municipal and county clerks as needed and then compile, analyze, and present the survey results objectively.

20%

C. Provide technical assistance to users of the WisVote system.

1. Assess and respond the educational, training, and technical assistance needs of local election officials, candidates, political parties, and members of the general public.

2. Assist with developing a protocol for WisVote education, training, and technical assistance to Local Election Officials.

3. Teach, train, and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality of election set up in the WisVote system.

7. Assist WisVote users in the development and use of customized reports.

10%

D. Participate in implementation of the Agency's Election Administration Plan and management goals.

1. Assist with carrying out WisVote initiatives and other activities included in the agency's Election Administration Plan and management goals.

2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in drafting fiscal analysis and legislative status reports.

4. Develop background information, testimony, and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.

5. Develop and maintain a high-level working knowledge of the Election Commission's core business requirements related to both WisVote functionalities and Election Administration tasks and initiatives.

6. Carry out special projects and assignments as directed by supervisor and/or agency management.

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Knowledge, Skills, and Abilities

1. Strong demonstrated experience in data collection, data validation methods, and evaluation techniques.

2. Significant experience with databases, data analysis, and presenting information with objective analysis.

3. Thorough knowledge of IS system methodologies, tools, and techniques.

4. Proven ability to develop substantial familiarity with and a working knowledge of election laws, administrative rules and Commission policies, methods, and procedures as they relate to election administration.

5. Strong analytical and strategic planning skills; ability to plan, organize, prioritize, and manage tasks

6. Strong communication skills: ability to speak and write effectively.

7. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.

8. Proficient in Microsoft Office Suite.

9. Proven training and education abilities to guide processes

10. Ability to travel as required.

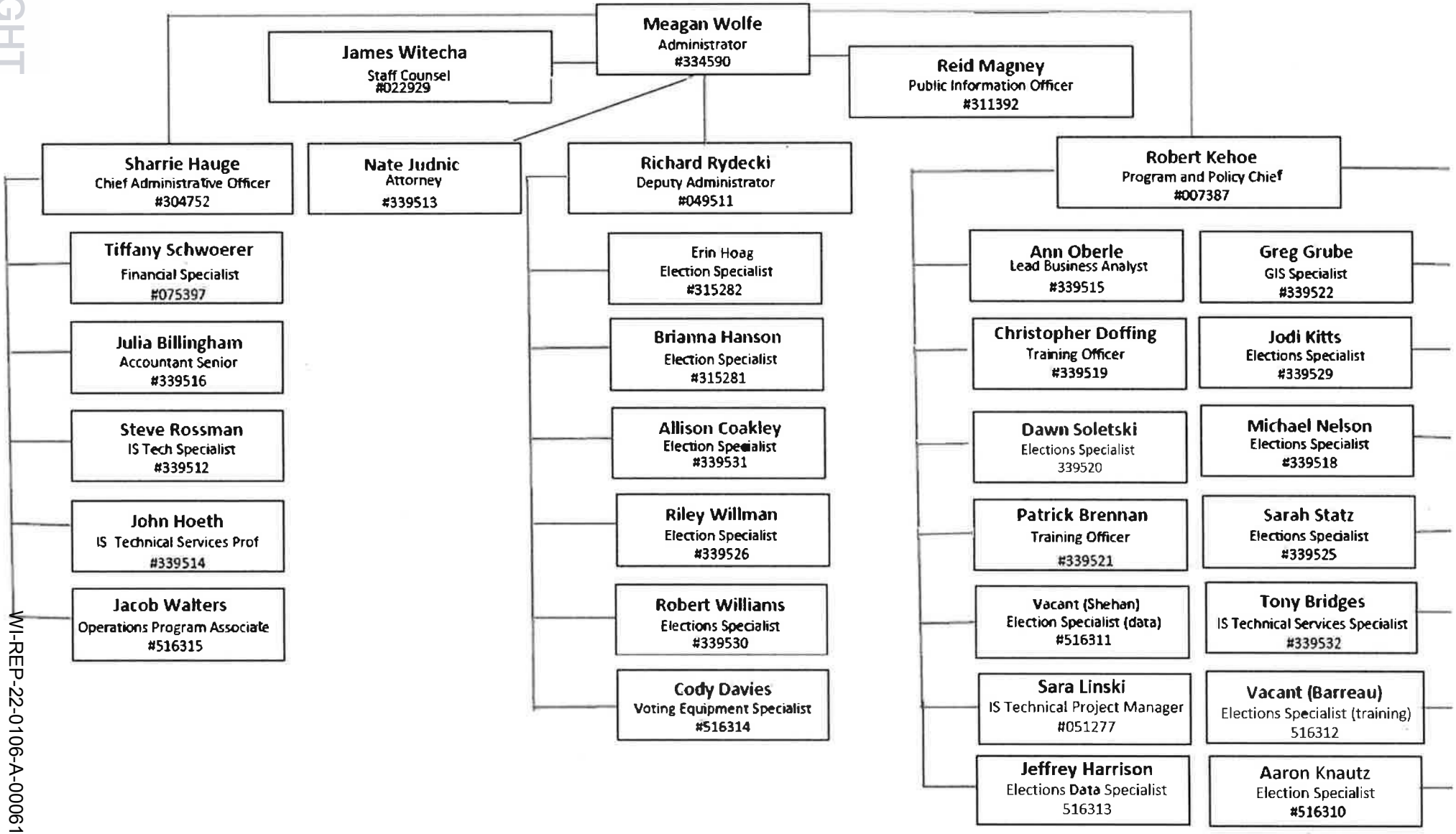
Safety Requirements

- Follow all Department safety guidelines and standards to maintain safe working conditions.
- Report to supervisor all incidents, accidents and near misses that resulted or could have resulted in personal injury or personal injury of a co-worker.
- Wear appropriate personal protective equipment in designated areas.
- Attend appropriate safety training sessions, as directed.
- Offer safety and health suggestions to co-workers to reduce risk.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000617

8/15/2021

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516313	R2021-103	510

4. NAME OF EMPLOYEE
Jeffrey C. Harrison

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E. washington Ave. Third Floor
Madison, WI 53707

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist- Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

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9. AGENCY WORKING TITLE OF POSITION
Elections Data Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Greg Grube, Elections Specialist- Senior
Sarah Statz, Elections Specialist- Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
11/1/2020

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See Attached

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— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See Attached

(Continue on attached sheets)

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a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 8/6/21

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

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(Please initial and date attachments.)

Signature of employee _____ Date 8/6/21

18. Signature of Human Resources Manager Julie Kisely Date 8/6/2021

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Elections Specialist – Senior
Position # 516313
Elections Data Specialist

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system called WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position would focus primarily on monitoring data quality and user compliance in the WisVote system. There are 3,000 users of the WisVote system, and this position will monitor user activity and correspond with non-compliant municipalities and also review and detect data quality issues in the system. It is responsible for understanding and applying relevant election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation to business procedures used to record and manage data in the WisVote system.

The position is also responsible for providing support related to several other Commission election data initiatives. It is responsible for managing technical functions of the Badger Book program, Wisconsin's ePollbook system servicing over 500,000 voters. This position serves as the primary project lead for communicating with local election officials to collect required Badger Book data. This position is also responsible for coordinating Absentee Voting module data quality, development, and testing.

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. This position will assist with another core function of the Commission and provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Wisconsin.

Duties and Responsibilities

40%

A. Maintain agency quality control standards for data and tasks in the statewide voter registration system to include programs that provide public access to data in accordance with Wis. Stat. section 6.36, and to provide technical assistance to system users.

AMERICAN OVERSIGHT

1. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials and the Wisconsin Elections Commission.

2. Provide technical assistance and customer support to local election officials, candidates, political parties, and members of the general public in regard to accessing data in the statewide voter registration database.

3. Under general supervision, advise and assist county and municipal election officials on the processing, submission, and reconciliation of all election data.

4. Research, develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Guide and assist WisVote users in the development and use of customized reports to meet office needs.

6. Guide and assist WisVote technical staff with the testing of program upgrades and new functionalities for the Absentee Voting module.

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

30%

B. Lead the Commission's Badger Book ePollbook data handling efforts in collaboration with management, program staff, and the agency's IT team.

1. Document standard procedures for the Commission data collection efforts.

2. Develop automated data validation procedures to improve data quality in Badger Book ePollbook systems.

3. Lead and conduct data reconciliation and audit efforts between the Commission's data management systems (e.g., WEDCS, WisVote, CRS, and others).

4. Manage the collection of election administration and voting statistics for all state and federal elections through agency data collection systems.

5. Publish elections-related data and statistics electronically, including those related to voter registration, absentee voting, military and permanent absentee voters, election day registration, elections results, polling place information, and election voter turnout.

6. Assist in completing federal reporting requirements such as the U.S. EAC's election administration and voting survey (EAVS).

AMERICAN OVERSIGHT

7. Conduct surveys of municipal and county clerks as needed and then compile, analyze, and present the survey results objectively.

20%

C. Provide technical assistance to users of the WisVote system.

1. Assess and respond the educational, training, and technical assistance needs of local election officials, candidates, political parties, and members of the general public.

2. Assist with developing a protocol for WisVote education, training, and technical assistance to Local Election Officials.

3. Teach, train, and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality of election set up in the WisVote system.

7. Assist WisVote users in the development and use of customized reports.

10%

D. Participate in implementation of the Agency's Election Administration Plan and management goals.

1. Assist with carrying out WisVote initiatives and other activities included in the agency's Election Administration Plan and management goals.

2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in drafting fiscal analysis and legislative status reports.

4. Develop background information, testimony, and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.

5. Develop and maintain a high-level working knowledge of the Election Commission's core business requirements related to both WisVote functionalities and Election Administration tasks and initiatives.

6. Carry out special projects and assignments as directed by supervisor and/or agency management.

AMERICAN OVERSIGHT

Knowledge, Skills, and Abilities

1. Strong demonstrated experience in data collection, data validation methods, and evaluation techniques.

2. Significant experience with databases, data analysis, and presenting information with objective analysis.

3. Thorough knowledge of IS system methodologies, tools, and techniques.

4. Proven ability to develop substantial familiarity with and a working knowledge of election laws, administrative rules and Commission policies, methods, and procedures as they relate to election administration.

5. Strong analytical and strategic planning skills; ability to plan, organize, prioritize, and manage tasks

6. Strong communication skills: ability to speak and write effectively.

7. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.

8. Proficient in Microsoft Office Suite.

9. Proven training and education abilities to guide processes

10. Ability to travel as required.

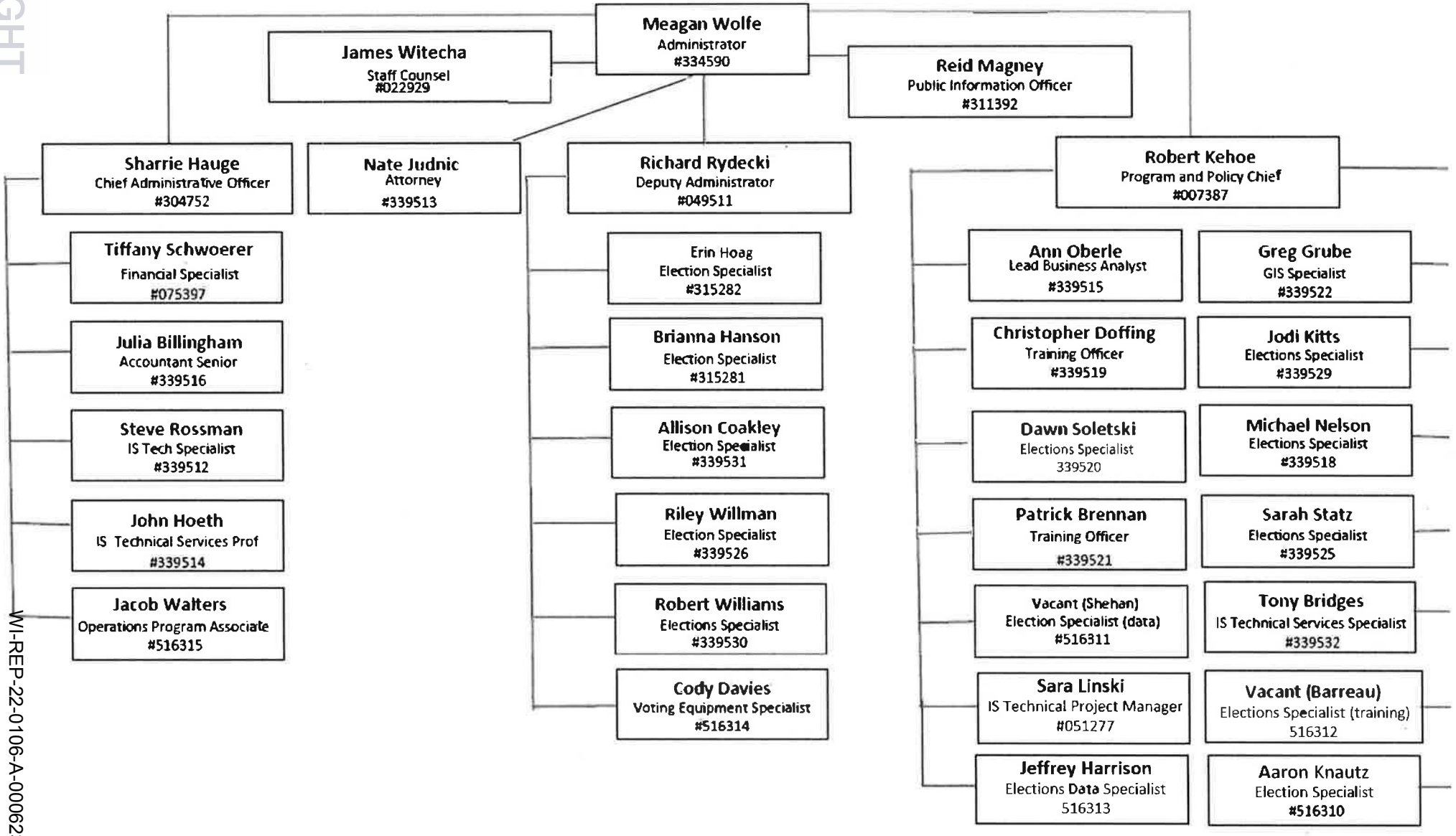
Safety Requirements

- Follow all Department safety guidelines and standards to maintain safe working conditions.
- Report to supervisor all incidents, accidents and near misses that resulted or could have resulted in personal injury or personal injury of a co-worker.
- Wear appropriate personal protective equipment in designated areas.
- Attend appropriate safety training sessions, as directed.
- Offer safety and health suggestions to co-workers to reduce risk.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000623

8/15/2021

IMPORTANT: PLEASE READ INSTRUCTIONS ON BACK OF LAST PAGE

POSITION DESCRIPTION

DER-PERS-10 (Rev. 5-84)
State of Wisconsin
Department of Employment Relations

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
304752	Reallocation Effective 08.07.05	510

4. NAME OF EMPLOYE

Sharrie Hauge

5. DEPARTMENT, UNIT, WORK ADDRESS

State Elections Board
17 West Main Street – Suite 310
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION

Campaign Finance & Elections Supervisor

7. CLASS TITLE OPTION (*to be filled out by Personnel Office*)

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

Campaign Finance & Agency Operations Director

10. NAME AND CLASS OF EMPLOYES PERFORMING SIMILAR DUTIES

Barbara Hansen, Campaign Finance & Elections Supervisor

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR

Kevin Kennedy, Executive Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYES IN PERMANENT POSITIONS? Yes ☒ No ☐
IF YES, COMPLETE AND ATTACH A SUPERVISORY POSITION ANALYSIS FORM (DER-DCC-84).

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

Please see attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on back of last page.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	Please see attached.

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on back of last page)*

a. The supervision, direction, and review given to the work of this position is [ ] close [ ] limited [x] general.

b. The statements and time estimates above and on attachments accurately describe the work assigned to the position. *(Please initial and date attachments.)*

Signature of first-line supervisor Kevin J Kennedy Date 3/31/06

17. EMPLOYE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position. *(Please initial and date attachments.)*

Signature of employe Sharrie Hauge Date 3/31/06

18. Signature of Personnel Manager Tony Wm. Evans Date 03.23.06

P-FILE OSER EMPLOYEE SUPERVISOR COPY FILE COPY

AMERICAN OVERSIGHT

Campaign Finance & Elections Supervisor

(Position # 304752)

POSITION SUMMARY

The agency working title for this position is Campaign Finance and Agency Operations Director. This position provides professional and administrative services under the general direction of the executive director. This position manages the campaign finance program, personnel and financial operations of the agency. This position directly supervises the personnel responsible for campaign auditing and financial operations. This position develops policy and procedures and sets goals and objectives for campaign auditing, personnel and financial operations of the agency. This position serves on the agency budget, enforcement, information technology and management teams.

DUTIES AND RESPONSIBILITIES

30%

A. **Plan, organize and supervise the operation of the campaign finance administration responsibilities of the agency.**

1. Plan, organize and supervise the agency based auditing of all campaign finance disclosure documents.

2. Plan, organize and supervise the administration of the Wisconsin Election Campaign Fund (WECF) program.

3. Hire, supervise training, set goals and objectives, evaluate performance and manage personnel matters of campaign audit staff.

4. Plan, organize and supervise the design, update and development of campaign finance forms, manuals, procedures, and record keeping systems.

5. Counsel local election officials, candidates and registrants on the requirements of campaign finance law as it relates to particular circumstances.

6. Manage legislative records, prepare fiscal notes and legislative status reports for campaign finance related legislation.

7. Review campaign finance violations related to late or non-filing of campaign finance reports identified by auditors, determine appropriate action, evaluate registrant responses and recommend enforcement actions.

8. Manage the collection of settlement offers as a result of enforcement actions.

9. Prepare reports to the Board related to late or non-filing of campaign finance reports, including recommendations for disposition.

10. Plan, organize and supervise the preparation of campaign finance statistical and other informational reports prepared on behalf of the agency.

30%

B. **Oversee the development and management of the agency's operating budgets including:**

AMERICAN OVERSIGHT

- Budgets totaling approximately $51.5 million;
- Federal, state, and program revenue funding;
- 25 FTE's

1. Prepare and analyze the agency's operating budgets for the Executive Director.

2. Present the agency's operating budgets to the Executive Director, interpreting the impact and recommending alternatives where appropriate.

3. Initiate and coordinate the development of agency budget policies and rules.

4. Manage the budget control function and advise the Executive Director and other appropriate staff as to problems regarding transfers of funds, allotments or expenditure projections, etc.

5. Recommend changes in timing and allocation of resources and activities as appropriate.

6. Manage the agency's fiscal year-end encumbrance closeouts and carryovers.

7. Perform fiscal analysis on the administration of agency budgets and advise the Executive Director accordingly.

8. Prepare fiscal data and make recommendations to the Executive Director as appropriate for the biennial budget.

9. Manage purchasing activities to ensure budget consistency.

25%

C. Plan, organize and supervise the fiscal management for the agency.

1. Serve as the agency's liaison to the State Budget Office and the State Controller's Office regarding budget and fiscal matters.

2. Formulate agency fiscal policies and procedures.

3. Advise the Executive Director of fiscal problems, recommending solutions and alternative courses of action where appropriate.

4. Review and analyze monthly financial status reports. Initiate budget adjustments or corrections on expenditures transfers when necessary.

5. Resolve expenditure and budget line item problems.

6. Make recommendations on the preparation of fiscal data for various federal and state reports.

7. Coordinate audit requests from the Legislative Audit Bureau and federal departments.

8. Make recommendations to the Executive Director on new initiatives and plans to improve the agency fiscal operations and functions.

AMERICAN OVERSIGHT

9. Analyze and evaluate the agency's procedures for compliance with federal and state audit regulations.

10. Develop and implement procedures for agency audit compliance.

11. Advise Executive Director of audit compliance issues and recommends corrective actions.

12. Hire, supervise training, set goals and objectives, evaluate performance and manage personnel matters of financial management staff.

13. Review the purchasing activities within the agency for compliance with appropriate State Procurement procedures or statutory requirements.

14. Monitor the purchase requisition process to ensure that no bottlenecks occur in the processing of requisitions according to prescribed turnaround standards.

15. Provide required agency and WISMART approvals for all financial transactions.

10%

D. Direct the implementation of management responsibilities to establish goals and ensure coordination of agency work teams.

1. Participate on the agency Management Team to establish agency goals and set objectives to measure agency performance.

2. Serve on agency Information Technology Team. Provide administrative and financial support to Information Technology Team.

3. Serve as Human Resources coordinator for the Agency.

4. Work with the Executive Director and other agency managers to develop and implement agency policies and procedures for key agency operations including:

   a. Forms and records management including agency correspondence.

   b. Electronic file management.

   c. Formal complaints filed with the agency, pursuant to Chapters 5, 8, 11 and 12 Wis. Stats., and related procedures in ELBd. Chapters 1 and 2, Wis. Adm.Code.

   d. Preparation of written materials by all agency staff.

   e. All public contacts by staff in person, by phone, by mail or by electronic communication.

   f. Ensure that agency records and documents, including campaign finance, ballot access and election statistics, are readily available to the public and agency clientele.

AMERICAN OVERSIGHT

5%

D. Other responsibilities

1. Carry out special projects and assignments as directed by the Executive Director.
2. Serve as liaison with the Department of Administration, Bureau of Personnel and Department of Employment Relations and maintain agency personnel records.

3. Represent agency on Affirmative Action, Health and Safety, and Facilities Management Councils. Develop agency response to state government mandated surveys and studies.

4. Provide leadership for the effectiveness and improvement of the health and safety program by developing a proper attitude toward health and safety in self and those supervised, and participating in all aspects of the health and safety program.

    a. Furnish the safeguards and resources required to ensure a healthy and safe workplace.

    b. Ensure all operations are performed with the utmost regard for the health and safety of all personnel involved.

    c. Comply with all rules and regulations and continuously practice safety while performing all duties.

5. Advance equal employment opportunity and affirmative action principles in the program operations of the agency and the management of the employees.

    a. Uphold federal and state equal opportunity laws by recognizing and taking active steps to eliminate work unit discrimination based on an employee's protected status (e.g., race, religion, gender, martial status, sexual orientation, arrest or conviction record, age, political affiliation, national origin or ancestry, creed, disability, or membership in the national guard, state defense force or any other reserve component of the military of the United States or this state).

    b. Plan, develop, and implement specific short and long-term AA/EEO goals for the work unit to increase the number of AA target group members employed in the unit.

    c. Work with each employee to develop a career development plan that identifies training and advancement opportunities that may encourage the retention of the employee.

    d. Actively contribute to the agency's efforts to attract, employ and advance affirmative action target group employees in permanent, part-time, and limited term employment. Coordinate these efforts for the work unit in consideration with agency staff, DOA human resources coordinator, and personnel specialists in DOA Bureau of Personnel.

    e. Review and implement AA/EEO policies and procedures relating to the hiring, training, advancing, and evaluation of all work unit employees.

AMERICAN OVERSIGHT

f. Provide information on AA policies and procedures to staff, concerning agency AA/EEO goals, harassment and discrimination policies, and training and advancement opportunities.

6. Perform research and analysis on special projects as assigned by the executive director.

Required Knowledge, Skills and Abilities:

Considerable knowledge of the principles and practices of business management and public administration, including personnel, purchasing, office management, methods and procedures, accounting and budgeting.

Knowledge of Wisconsin campaign finance law.

Ability to plan, organize and supervise the work of technical, clerical, and professional personnel.

Ability to prepare and install effective operating plans and procedures, including the writing of manuals and other procedural and related materials.

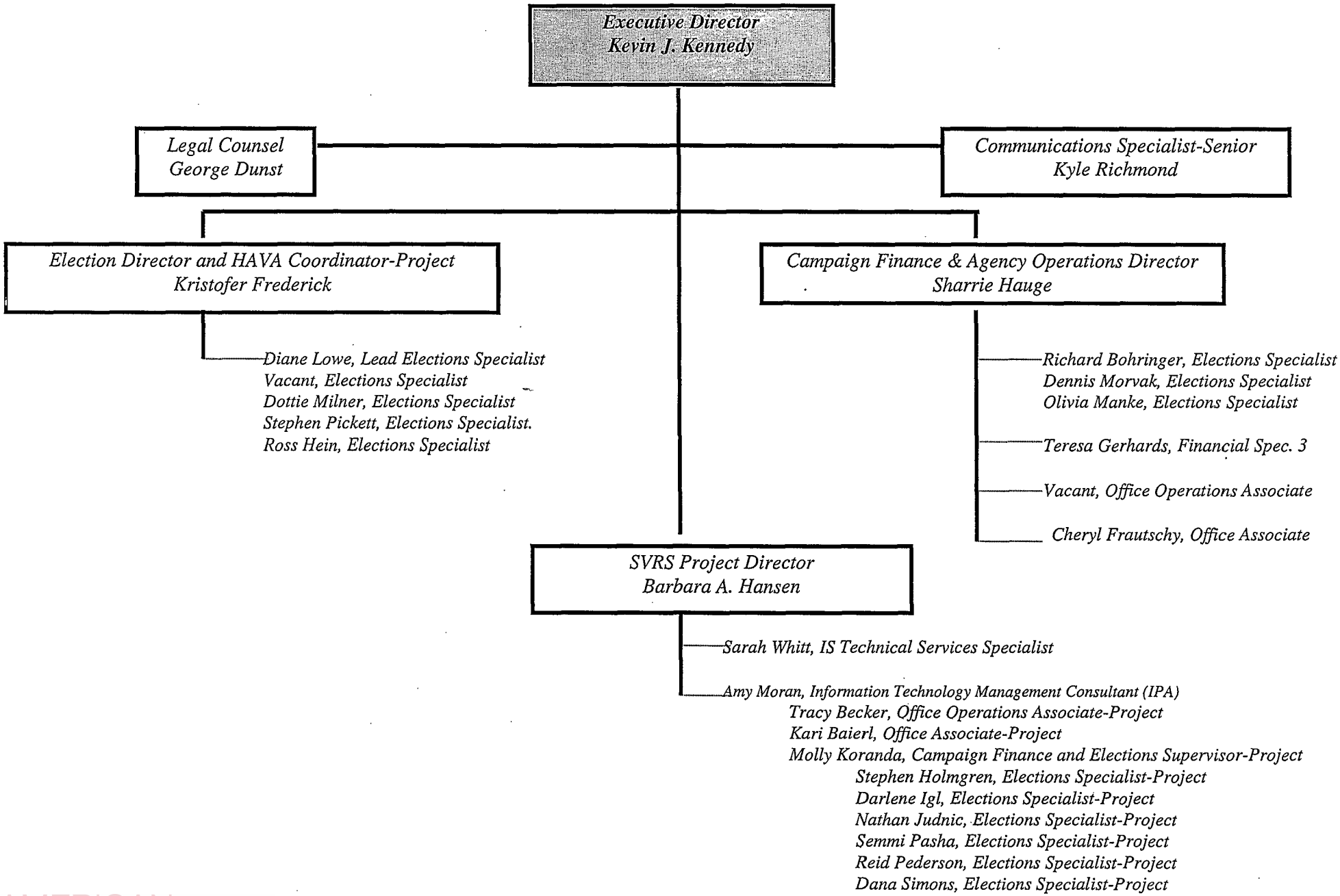
Ability to speak and write effectively.

Ability to establish and maintain effective working relationships with fellow employees, administrative officials, and the general public.

AMERICAN OVERSIGHT

ELECTIONS BOARD

Organizational Chart



H:/SEB Admin Records/Personnel/Organizational Chart_Names (Eff 014/20/06)

AMERICAN OVERSIGHT

IMPORTANT: PLEASE READ INSTRUCTIONS ON BACK OF LAST PAGE

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DER-PERS-10 (Rev. 5-84)
State of Wisconsin
Department of Employment Relations

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
304752	Reallocation Effective 08.07.05	510

4. NAME OF EMPLOYE

Sharrie Hauge

5. DEPARTMENT, UNIT, WORK ADDRESS

State Elections Board
17 West Main Street – Suite 310
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Barbara Hansen, Campaign Finance & Elections Supervisor

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR

Kevin Kennedy, Executive Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYE PERFORMED THE WORK DESCRIBED BELOW?

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18. Signature of Personnel Manager Tony Wm. Evans Date 03.23.06

P-FILE OSER EMPLOYEE SUPERVISOR COPY FILE COPY

AMERICAN OVERSIGHT

Campaign Finance & Elections Supervisor

(Position # 304752)

POSITION SUMMARY

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DUTIES AND RESPONSIBILITIES

30%

A. **Plan, organize and supervise the operation of the campaign finance administration responsibilities of the agency.**

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4. Plan, organize and supervise the design, update and development of campaign finance forms, manuals, procedures, and record keeping systems.

5. Counsel local election officials, candidates and registrants on the requirements of campaign finance law as it relates to particular circumstances.

6. Manage legislative records, prepare fiscal notes and legislative status reports for campaign finance related legislation.

7. Review campaign finance violations related to late or non-filing of campaign finance reports identified by auditors, determine appropriate action, evaluate registrant responses and recommend enforcement actions.

8. Manage the collection of settlement offers as a result of enforcement actions.

9. Prepare reports to the Board related to late or non-filing of campaign finance reports, including recommendations for disposition.

10. Plan, organize and supervise the preparation of campaign finance statistical and other informational reports prepared on behalf of the agency.

30%

B. **Oversee the development and management of the agency's operating budgets including:**

AMERICAN OVERSIGHT

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2. Present the agency's operating budgets to the Executive Director, interpreting the impact and recommending alternatives where appropriate.

3. Initiate and coordinate the development of agency budget policies and rules.

4. Manage the budget control function and advise the Executive Director and other appropriate staff as to problems regarding transfers of funds, allotments or expenditure projections, etc.

5. Recommend changes in timing and allocation of resources and activities as appropriate.

6. Manage the agency's fiscal year-end encumbrance closeouts and carryovers.

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8. Prepare fiscal data and make recommendations to the Executive Director as appropriate for the biennial budget.

9. Manage purchasing activities to ensure budget consistency.

25%

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2. Formulate agency fiscal policies and procedures.

3. Advise the Executive Director of fiscal problems, recommending solutions and alternative courses of action where appropriate.

4. Review and analyze monthly financial status reports. Initiate budget adjustments or corrections on expenditures transfers when necessary.

5. Resolve expenditure and budget line item problems.

6. Make recommendations on the preparation of fiscal data for various federal and state reports.

7. Coordinate audit requests from the Legislative Audit Bureau and federal departments.

8. Make recommendations to the Executive Director on new initiatives and plans to improve the agency fiscal operations and functions.

AMERICAN OVERSIGHT

9. Analyze and evaluate the agency's procedures for compliance with federal and state audit regulations.

10. Develop and implement procedures for agency audit compliance.

11. Advise Executive Director of audit compliance issues and recommends corrective actions.

12. Hire, supervise training, set goals and objectives, evaluate performance and manage personnel matters of financial management staff.

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14. Monitor the purchase requisition process to ensure that no bottlenecks occur in the processing of requisitions according to prescribed turnaround standards.

15. Provide required agency and WISMART approvals for all financial transactions.

10%

D. Direct the implementation of management responsibilities to establish goals and ensure coordination of agency work teams.

1. Participate on the agency Management Team to establish agency goals and set objectives to measure agency performance.

2. Serve on agency Information Technology Team. Provide administrative and financial support to Information Technology Team.

3. Serve as Human Resources coordinator for the Agency.

4. Work with the Executive Director and other agency managers to develop and implement agency policies and procedures for key agency operations including:

   a. Forms and records management including agency correspondence.

   b. Electronic file management.

   c. Formal complaints filed with the agency, pursuant to Chapters 5, 8, 11 and 12 Wis. Stats., and related procedures in ELBd. Chapters 1 and 2, Wis. Adm.Code.

   d. Preparation of written materials by all agency staff.

   e. All public contacts by staff in person, by phone, by mail or by electronic communication.

   f. Ensure that agency records and documents, including campaign finance, ballot access and election statistics, are readily available to the public and agency clientele.

AMERICAN OVERSIGHT

5%

D. Other responsibilities

1. Carry out special projects and assignments as directed by the Executive Director.
2. Serve as liaison with the Department of Administration, Bureau of Personnel and Department of Employment Relations and maintain agency personnel records.

3. Represent agency on Affirmative Action, Health and Safety, and Facilities Management Councils. Develop agency response to state government mandated surveys and studies.

4. Provide leadership for the effectiveness and improvement of the health and safety program by developing a proper attitude toward health and safety in self and those supervised, and participating in all aspects of the health and safety program.

    a. Furnish the safeguards and resources required to ensure a healthy and safe workplace.

    b. Ensure all operations are performed with the utmost regard for the health and safety of all personnel involved.

    c. Comply with all rules and regulations and continuously practice safety while performing all duties.

5. Advance equal employment opportunity and affirmative action principles in the program operations of the agency and the management of the employees.

    a. Uphold federal and state equal opportunity laws by recognizing and taking active steps to eliminate work unit discrimination based on an employee's protected status (e.g., race, religion, gender, martial status, sexual orientation, arrest or conviction record, age, political affiliation, national origin or ancestry, creed, disability, or membership in the national guard, state defense force or any other reserve component of the military of the United States or this state).

    b. Plan, develop, and implement specific short and long-term AA/EEO goals for the work unit to increase the number of AA target group members employed in the unit.

    c. Work with each employee to develop a career development plan that identifies training and advancement opportunities that may encourage the retention of the employee.

    d. Actively contribute to the agency's efforts to attract, employ and advance affirmative action target group employees in permanent, part-time, and limited term employment. Coordinate these efforts for the work unit in consideration with agency staff, DOA human resources coordinator, and personnel specialists in DOA Bureau of Personnel.

    e. Review and implement AA/EEO policies and procedures relating to the hiring, training, advancing, and evaluation of all work unit employees.

AMERICAN OVERSIGHT

f. Provide information on AA policies and procedures to staff, concerning agency AA/EEO goals, harassment and discrimination policies, and training and advancement opportunities.

6. Perform research and analysis on special projects as assigned by the executive director.

Required Knowledge, Skills and Abilities:

Considerable knowledge of the principles and practices of business management and public administration, including personnel, purchasing, office management, methods and procedures, accounting and budgeting.

Knowledge of Wisconsin campaign finance law.

Ability to plan, organize and supervise the work of technical, clerical, and professional personnel.

Ability to prepare and install effective operating plans and procedures, including the writing of manuals and other procedural and related materials.

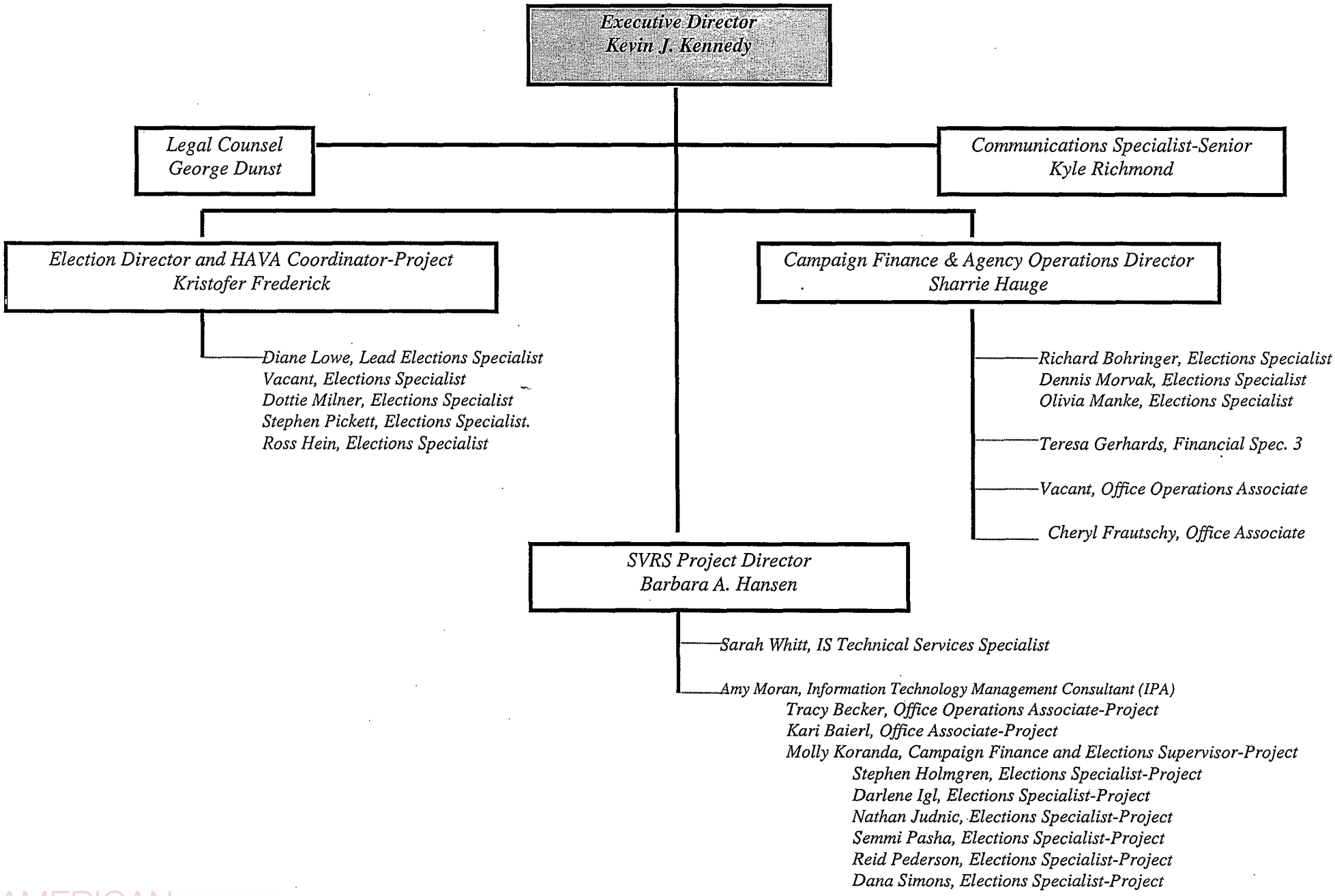
Ability to speak and write effectively.

Ability to establish and maintain effective working relationships with fellow employees, administrative officials, and the general public.

AMERICAN OVERSIGHT

ELECTIONS BOARD

Organizational Chart



H:/SEB Admin Records/Personnel/Organizational Chart_Names (Eff 014/20/06)

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
315282	ATTH200120	510

4. NAME OF EMPLOYEE
Erin Hoag

5. DEPARTMENT, UNIT, WORK ADDRESS
Elections Commission
212 East Washington Avenue, Third Floor
Madison, Wisconsin 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Entry

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Brianna Hanson, Elections Specialist - Entry

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, INDEF AG APPT-20.923 (4)ESG 3

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
09/28/2020

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ⊗ close ○ limited ○ general.

b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.

(Please initial and date attachments.)

Signature of first-line supervisor Richard Rydecki Date 1/4/2021

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.

(Please initial and date attachments.)

Signature of employee [signature] Date 1/4/2021

18. Signature of Human Resources Manager Dylan Smith Date 11/6/2020

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission
Elections Specialist – Entry
#315282

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

Under the close, progressing to limited supervision of the Assistant Administrator, this position functions as part of the elections administration team, and is a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position will develop and maintain a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position regularly participates in conducting public outreach, education, training, technical assistance workshops, seminars, and certification classes for local election officials and members of the public. This position is also responsible for core election administration tasks, including, but not limited to: review of state and federal candidate ballot access documents, ballot design and review, and canvass of election results. Further, this position will participate in implementing other initiatives identified by agency management and the Commission.

The position also works in and provides services regarding Wisconsin's statewide voter registration system called WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

AMERICAN OVERSIGHT

Duties and Responsibilities

30%

A. Serve as a member of the agency's election administration team and maintain election-related functions of the agency as they relate to federal, state, county, local, and school district election officials.

1. Develop and maintain a high-level working knowledge of all elections laws governing responsibilities of state and local election officials and obligations of candidates.

2. With guidance from senior staff, communicate with legislators, candidates, political registrants, media representatives, other state agencies, representatives from state and national organizations, and the general public on all election-related subjects, including interpretation of laws, administrative rules, and Commission policies.

3. Prepare written communications in response to requests from agency customers.

4. Assist with examination of ballots submitted by county and municipal election officials to determine compliance with prescribed format, statutory criteria and agency certification. Inform county election officials of any discrepancies promptly and maintain a record of problems and contacts.

5. Ensure election results reported electronically by county boards of canvassers into the agency Canvass Reporting System (CRS) are in the required format.

6. Assist in preparing and ensuring accuracy of notices related to all state and federal elections and distribute the correct notice to each county election official within statutory deadlines.

7. Prepare and ensure accuracy of certificates of election for all winning state and federal candidates and all applicable certificates relating to presidential, congressional and referendum elections by statutory deadlines.

8. Work with and assist other agency staff with projects related to election administration, such as voting equipment approval, accessibility of polling places, voter outreach, and the statewide voter registration database and election management system.

9. Maintain information for all offices, contests, and candidates in the state's election management system. Create new offices and verify information as necessary.

10. Maintain term and incumbency information to ensure correct tracking of resignations, retirements, appointments, expiration dates and election dates for all state and federal offices.

AMERICAN OVERSIGHT

30%

B. With guidance from the Assistant Administrator and Senior Staff, participate in the provision of election administration education, training, technical assistance and public outreach to local election officials and members of the public.

1. Consult with and advise county, municipal, and school district officials, concerning their election-related responsibilities, through effective oral and written communications.

2. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to the election administration responsibilities of these officials.

3. Participate in the design and development of training manuals by drafting new material on specified subjects and by reviewing, providing feedback, and editing drafts prepared by others. These manuals are used by county, municipal and election inspectors, and school board officials, as well as the public.

4. Assist in the development of new training tools and methods using various forms of technology, including online and video-based training.

5. Coordinate the preparation and distribution of election-related materials such as memoranda, publications, and the calendar of election events and deadlines.

6. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations, and solicit their feedback and input regarding election administration procedures and requirements.

7. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

25%

C. Technical Assistance and Quality Control of WisVote

1. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

AMERICAN OVERSIGHT

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

10%

D. Assist in the processing and certification of nomination papers, recount petitions, recall petitions, petitions for ballot status, and official election results.

1. Assist in the development of ballot access checklists for federal, state and county candidates.

2. Develop and implement procedures for the agency's processing of nomination papers and election-related petitions.

3. Train staff members to determine the validity and sufficiency of ballot access documents following criteria established by law and agency procedures.

4. Determine ballot status for all federal and state candidates by evaluating documents and qualifications for placement on the ballot, and determine ballot order of names of candidates for all state and federal offices.

5. Prepare and ensure accuracy of all candidate and state referendum certifications and distribute proper certification to county election officials within the statutory deadlines for each election event.

5%

E. Carry out special projects and assignments as directed by the Assistant Administrator.

1. Assist with implementing initiatives outlined in the agency's Election Administration Plan.

2. Act as team member or team lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

3. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

4. Assist in review and resolution of complaints filed against local election officials.

5. Draft responses to inquiries from the Governor's Office, the Legislature, other agencies and the public.

AMERICAN OVERSIGHT

6. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Knowledge of federal and state election laws, administrative rules, Commission policies, and business processes as they relate to election administration.
2. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.
3. Ability to work in a team environment and establish and maintain effective working relationships with fellow employees, administrative officials, election officials, legislators, other state agency officials, and the general public.
4. Effective communication skills; ability to speak and write effectively.
5. Ability to plan, organize, and prioritize workloads.
6. Strong analytical and strategic planning skills.
7. Ability to demonstrate initiative and independence in carrying out assigned tasks.
8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.
- Must comply with nonpartisan requirements during employment.
- Ability to travel statewide as required.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
315282	ATTH200120	510

4. NAME OF EMPLOYEE
Erin Hoag

5. DEPARTMENT, UNIT, WORK ADDRESS
Elections Commission
212 East Washington Avenue, Third Floor
Madison, Wisconsin 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Entry

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Brianna Hanson, Elections Specialist - Entry

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, INDEF AG APPT-20.923 (4)ESG 3

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
09/28/2020

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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Signature of first-line supervisor Richard Rydecki Date 1/4/2021

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(Please initial and date attachments.)

Signature of employee [signature] Date 1/4/2021

18. Signature of Human Resources Manager Dylan Smith Date 11/6/2020

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AMERICAN OVERSIGHT

Wisconsin Elections Commission
Elections Specialist – Entry
#315282

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

30%

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2. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to the election administration responsibilities of these officials.

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25%

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AMERICAN OVERSIGHT

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10%

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5%

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4. Assist in review and resolution of complaints filed against local election officials.

5. Draft responses to inquiries from the Governor's Office, the Legislature, other agencies and the public.

AMERICAN OVERSIGHT

6. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

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4. Effective communication skills; ability to speak and write effectively.
5. Ability to plan, organize, and prioritize workloads.
6. Strong analytical and strategic planning skills.
7. Ability to demonstrate initiative and independence in carrying out assigned tasks.
8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.
- Must comply with nonpartisan requirements during employment.
- Ability to travel statewide as required.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339514		51000

4. NAME OF EMPLOYEE
John Hoeth

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Resources Support Tech Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
February 2019

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

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(Please initial and date attachments.)

Signature of first-line supervisor [signature] Date 5/24/19

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

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(Please initial and date attachments.)

Signature of employee [signature] Date 5/24/19

18. Signature of Human Resources Manager _____ Date _____

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION

IS Resources Support Tech-Senior Position
Position #339514

Position Summary

The Wisconsin Elections Commission (WEC) Service Desk provides customer service to many units of government, including 1,851 municipal clerks and 72 county clerks throughout the State of Wisconsin, in the areas of application user support and election business process support. The WEC Service Desk supports over 2,000 clerks and state staff users in the WisVote Election Management System which contains over 3.7 million voter registration records, election management processes, election reporting and other election administration information.

This position functions as part of the agency's Customer Service Response Team that provides a wide range of informational, technical assistance, and customer service support in the administration of all types of elections to the Commission's customers and partners in the areas of user and business processes and practices. This array of customer services includes but is not limited to county, municipal, and school district clerks and administrators, as well voter customers and members of the general public. This position also maintains Servers and Active Directory along with enhancing Customer Relations Software for WisVote to assist the clerks with everyday functions.

Goals and Worker Activities

40%

A. Ensure the delivery of quality customer service for WisVote Users.

A1. Respond to inquiries regarding Wisconsin's election administration business process, both written and verbal, and provide information on compliance options.

A2. Maintain server directories and access structure for WisVote users and staff. Generate logon ID's and passwords for all WisVote users. Assign proper user roles, perform password resets and deletes or suspend user accounts.

A3. Receive, track and refer specific and/or policy-related election administration business process issues for timely resolution. Resolve general election administration issues.

A4. Manage all aspects of changes including procedures, software, hardware, applications to ensure smooth transition and minimal impact on agency applications for customers.

A5. Monitor usage, manage storage capacity and consult on hardware, software and problem change definitions for WisVote and other agency needs.

A6. Develop and implement programs to ensure that users are aware of, understand, and adhere to security and other enterprise IT standards, policies, and procedures.

A7. Provide analysis and resolution to customer's inquiries, concerns and problems called into the Wisconsin Election Commission's Customer Service Center

AMERICAN OVERSIGHT

5/24/19

40%

B. Provide technical server support for software and systems for WEC.

B1. Provide technical consulting and support of hardware, applications support software and systems software at an agency level.

B2. Assist with the technical analysis supporting data management, file conversions, file organization methods, system implementation, and data recovery procedures for optimum system performance.

B3. Recommend automation techniques for processing voter registrations, voter cancellations, etc., through WisVote to eliminate manual procedures.

B4. Perform advanced IS work in WisVote while maintaining voter information and election set-up.

B5. Assess and recommend hardware/software configurations, procedures, and technical standards to be used by applications development and operations staff.

B6. Participate in system design meetings to develop objectives and requirements of new systems or maintenance to existing systems. Create new views in CRM for staff and redefine the emails that are produced out of CRM.

15%

C. Provide technical service support and information to WEC management and staff.

C1. Create manuals and procedures for navigating in the agency web-based systems to meet customer's needs.

C2. Serve as Security officer for Accounts Domain and perform end user system administration.

C3. Work with other IS staff to resolve WisVote technical problems. Provide management with status reports on Help Desk problem tickets.

C4. Provide information, direction, and training in systems and other software products.

C5. Research and resolve complex systems software enhancements.

C6. Provide advice to customers on microcomputer, and potentially, other computer system software and hardware purchase, compatibility, and other aspects.

C7. Provide feedback to Agency management on solutions to common WisVote and election administration user problems, concerns and inquiries.

5%

D. **Carry out special projects and assignments as directed by management**.

D1. Prepare and present written reports and recommendations to management.

D2. Coordinate and conduct project meetings of agency staff and interagency staff.

AMERICAN OVERSIGHT

5/24/19

Knowledge, Skills and Abilities Request

1. Knowledge of IS system methodologies, tools and techniques, including experience with Active Directory and Customer Service Center Tracking Tools.

2. Effective hands-on knowledge of advanced levels of computer programs and various computer technologies (i.e. internet research tools).

3. Strong customer service and problem-solving skills.

4. A thorough working knowledge of Federal and State election laws, state administrative rules and Board policies, methods and procedures.

5. Strong analytical and strategic planning skills.

6. Effective oral and written communication skills. Ability to effectively communicate complex technical information to an audience with a wide range of technical expertise.

7. Proficient in Microsoft Office Suite, including knowledge of data and word processing concepts.

8. Ability to collaborate effectively with others, including the media, elected and government officials, and members of the public.

9. Ability to work on a team and in a team environment exuding strong interpersonal skills.

10. Extensive knowledge of various methods and techniques for effectively delivering information.

11. Ability to plan, organize, and prioritize workloads, work independently, handle multiple tasks and changing priorities, meet deadlines and perform under pressure.

12. Knowledge of Visual Studio to create reports

Special Requirements

- Ability to lift up to 20 pounds, with or without an accommodation.

AMERICAN OVERSIGHT
5/24/19

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
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11. NAME AND CLASS OF FIRST-LINE SUPERVISOR

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February 2019

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IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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(Please initial and date attachments.)

Signature of employee [signature] Date 5/24/19

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION

IS Resources Support Tech-Senior Position
Position #339514

Position Summary

The Wisconsin Elections Commission (WEC) Service Desk provides customer service to many units of government, including 1,851 municipal clerks and 72 county clerks throughout the State of Wisconsin, in the areas of application user support and election business process support. The WEC Service Desk supports over 2,000 clerks and state staff users in the WisVote Election Management System which contains over 3.7 million voter registration records, election management processes, election reporting and other election administration information.

This position functions as part of the agency's Customer Service Response Team that provides a wide range of informational, technical assistance, and customer service support in the administration of all types of elections to the Commission's customers and partners in the areas of user and business processes and practices. This array of customer services includes but is not limited to county, municipal, and school district clerks and administrators, as well voter customers and members of the general public. This position also maintains Servers and Active Directory along with enhancing Customer Relations Software for WisVote to assist the clerks with everyday functions.

Goals and Worker Activities

40%

A. Ensure the delivery of quality customer service for WisVote Users.

A1. Respond to inquiries regarding Wisconsin's election administration business process, both written and verbal, and provide information on compliance options.

A2. Maintain server directories and access structure for WisVote users and staff. Generate logon ID's and passwords for all WisVote users. Assign proper user roles, perform password resets and deletes or suspend user accounts.

A3. Receive, track and refer specific and/or policy-related election administration business process issues for timely resolution. Resolve general election administration issues.

A4. Manage all aspects of changes including procedures, software, hardware, applications to ensure smooth transition and minimal impact on agency applications for customers.

A5. Monitor usage, manage storage capacity and consult on hardware, software and problem change definitions for WisVote and other agency needs.

A6. Develop and implement programs to ensure that users are aware of, understand, and adhere to security and other enterprise IT standards, policies, and procedures.

A7. Provide analysis and resolution to customer's inquiries, concerns and problems called into the Wisconsin Election Commission's Customer Service Center

AMERICAN OVERSIGHT

5/24/19

40%

B. Provide technical server support for software and systems for WEC.

B1. Provide technical consulting and support of hardware, applications support software and systems software at an agency level.

B2. Assist with the technical analysis supporting data management, file conversions, file organization methods, system implementation, and data recovery procedures for optimum system performance.

B3. Recommend automation techniques for processing voter registrations, voter cancellations, etc., through WisVote to eliminate manual procedures.

B4. Perform advanced IS work in WisVote while maintaining voter information and election set-up.

B5. Assess and recommend hardware/software configurations, procedures, and technical standards to be used by applications development and operations staff.

B6. Participate in system design meetings to develop objectives and requirements of new systems or maintenance to existing systems. Create new views in CRM for staff and redefine the emails that are produced out of CRM.

15%

C. Provide technical service support and information to WEC management and staff.

C1. Create manuals and procedures for navigating in the agency web-based systems to meet customer's needs.

C2. Serve as Security officer for Accounts Domain and perform end user system administration.

C3. Work with other IS staff to resolve WisVote technical problems. Provide management with status reports on Help Desk problem tickets.

C4. Provide information, direction, and training in systems and other software products.

C5. Research and resolve complex systems software enhancements.

C6. Provide advice to customers on microcomputer, and potentially, other computer system software and hardware purchase, compatibility, and other aspects.

C7. Provide feedback to Agency management on solutions to common WisVote and election administration user problems, concerns and inquiries.

5%

D. **Carry out special projects and assignments as directed by management**.

D1. Prepare and present written reports and recommendations to management.

D2. Coordinate and conduct project meetings of agency staff and interagency staff.

AMERICAN OVERSIGHT

5/24/19

Knowledge, Skills and Abilities Request

1. Knowledge of IS system methodologies, tools and techniques, including experience with Active Directory and Customer Service Center Tracking Tools.

2. Effective hands-on knowledge of advanced levels of computer programs and various computer technologies (i.e. internet research tools).

3. Strong customer service and problem-solving skills.

4. A thorough working knowledge of Federal and State election laws, state administrative rules and Board policies, methods and procedures.

5. Strong analytical and strategic planning skills.

6. Effective oral and written communication skills. Ability to effectively communicate complex technical information to an audience with a wide range of technical expertise.

7. Proficient in Microsoft Office Suite, including knowledge of data and word processing concepts.

8. Ability to collaborate effectively with others, including the media, elected and government officials, and members of the public.

9. Ability to work on a team and in a team environment exuding strong interpersonal skills.

10. Extensive knowledge of various methods and techniques for effectively delivering information.

11. Ability to plan, organize, and prioritize workloads, work independently, handle multiple tasks and changing priorities, meet deadlines and perform under pressure.

12. Knowledge of Visual Studio to create reports

Special Requirements

- Ability to lift up to 20 pounds, with or without an accommodation.

AMERICAN OVERSIGHT
5/24/19

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339513	ATTH200118	51000

4. NAME OF EMPLOYEE
Nathan Judnic

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E. Washington Ave.
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Attorney

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Camille Lore, IS Business Automation Analyst

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

- GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
- WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
- TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.

b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date _____

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

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AMERICAN OVERSIGHT

Wisconsin Elections Commission
Attorney

Position Summary

Under the general policy direction of the Elections Commission Administrator, this position is responsible for providing legal advice on the application of elections laws to the Commission and its staff along with authoritative and timely advice and information to candidates, state and local election officials, state public officials and the general public. This position is responsible for preparing legal opinions, enforcement orders and administrative rules to implement agency policy and authority.

This position will also represent and support the agency in all relevant litigation matters, including preparing agency legal filings and acting as a liaison with agency outside counsel. All agency staff is also required by state law to meet standards for non-partisanship. It is imperative that the incumbent not place himself or herself in a position that would undermine officials' or the public's confidence in the Commission's integrity, fairness, and non-partisanship.

Duties and Responsibilities

30%

A. Provide legal advice to the Commission and staff, along with authoritative and timely advice and information on the application of laws, rules and regulations under the agency's jurisdiction to candidates, state and local election officials, state public officials and members of the public.

1. Research and prepare memoranda for consideration by the Commission, Administrator and staff on a wide variety of election administration legal issues.

2. Provide written response to correspondence and inquiries concerning election administration issues, regulations and requirements. This position also provides advice when called directly and offers guidance to other staff about how to respond to oral requests for advice.

3. Provide prompt written information on the application of laws, rules and regulations under the agency's jurisdiction to agency customers, the media and the public.

4. Prepare prompt written responses to correspondence referred by the Administrator.

5. Answer telephone inquiries referred by the agency staff including direct calls.

6. Provide advice and direction to agency staff on the application of laws, rules and regulations under the agency's jurisdiction. Work with key agency personnel to ensure effective agency management of legal issues.

AMERICAN OVERSIGHT

7. Prepare formal opinions issued by the Commission and informal opinions as directed by the Commission or Administrator.

8. Prepare and present information and training programs and materials for agency clientele and the public.

9. Assist in the development, review, and revision of forms, manuals, procedures and publications of the agency and administer the agency guidance document review and approval process.

20%

B. Administer the statutorily required process for complaints submitted to the Commission alleging violations of election law.

1. Develop and revise procedures for processing complaints filed with the agency and conducting research of complaints.

2. Research applicable law to prepare reports and recommendations to the Commission, and Administrator on alleged violations of laws, rules and regulations under the agency's jurisdiction.

3. Conduct research of complaints filed with the Commission following established agency procedures. This includes analyzing facts gathered during complaint process and prepare written report with legal analysis and recommendations.

4. Refer matters to the district attorney or attorney general for investigation and further action. At the direction of the Commission this position would prepare documents to make referrals to the appropriate district attorney for criminal prosecutions and disposition of violations in local races.

5. Review complaints challenging sufficiency of nomination papers, recall petitions and petitions for ballot access filed with the Commission. This includes evaluating petition problems identified by staff and complainants and conduct a review following agency procedures to ensure due process to all affected parties and timely resolution by the Commission and Administrator.

20%

C. Represent the agency in election related matters and provide litigation support on behalf of the agency.

1. Manage agency related litigation matters and provide analysis of legal actions involving the Commission.

2. Assist the office of the Attorney General when legal action has been brought against the Commission or staff.

3. Represent the agency in state and federal courts in cases where the Attorney General does not represent the Commission.

AMERICAN OVERSIGHT

4. Serve as liaison between agency counsel and the Commission and Administrator.

5. Draft pleadings and other legal filings in support of agency litigation matters.

6. Review and provide feedback for legal filings made on behalf of agency counsel.

7. Provide timely litigation updates to the Commission and Administrator.

8. Maintain agency litigation and enforcement files and records.

20%

D. Provide legislative support services for the agency.

1. Identify areas for remedial legislation and make recommendations to the Commission and Administrator for proposed legislative changes.

2. Review legislative drafts prepared by the Legislative Reference Bureau and assisting drafting proposed legislation.

3. Represent agency at legislative and agency hearings as assigned by Administrator.

4. Monitor and analyze legislation related to laws, rules and regulations under the agency's jurisdiction and other matters related to the agency.

5. Prepare assigned bill analyses and fiscal estimates.

6. Work and consult with Commission members, staff, legislators, legislative committees and others on proposed legislative changes with respect to subject areas of laws, rules and regulations under the agency's jurisdiction.

10%

E. Implement administrative rule making authority and responsibilities of agency.

1. Draft rules following procedures established by the Legislative Clearinghouse for the preparation and review of administrative rules.

2. Prepare new rules required by law or directed by the Commission.

3. Revise agency administrative code, maintaining consistency with statutory changes.

4. Carryout promulgation responsibilities to assure enactment of agency rules.

5. Identify areas for rule development.

6. Review rules with Commission, Administrator, and staff.

AMERICAN OVERSIGHT

Special Notes:

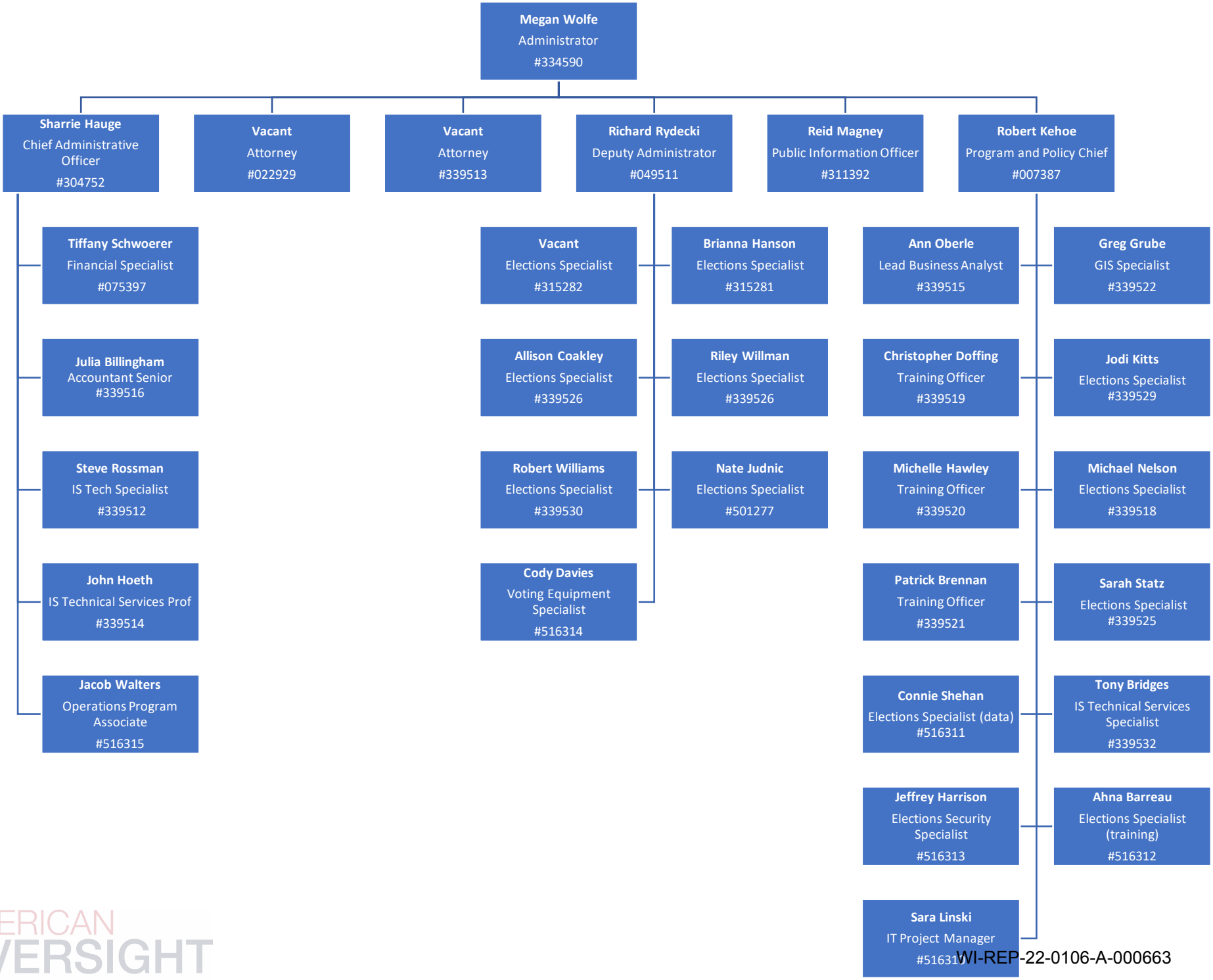
Candidates must possess a law degree from an accredited law school and be eligible to be licensed to practice law in the State of Wisconsin.

The selected candidate must not have given a contribution to a partisan campaign or candidate twelve months prior to the appointment.

Job Knowledge, Skills and Abilities:

1. Excellent communication skills (verbal and written).
2. Ability to translate complex, technical information, and/or processes to clients.
3. Knowledge and familiarity with administrative law.
4. Knowledge and familiarity in elections law.
5. Basic legal skills pertaining to legal issue analysis, legal writing skills, representation, and oral advocacy.
6. Ability to work independently and be self-motivated.
7. Ability to problem solve and employ analytical abilities to provide innovative professional judgement in analyses and decisions.
8. Ability to effectively prioritize workload and adapt to changing priorities.

AMERICAN OVERSIGHT



AMERICAN OVERSIGHT

POSITION DESCRIPTION

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DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339513	ATTH200118	51000

4. NAME OF EMPLOYEE
Nathan Judnic

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E. Washington Ave.
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Attorney

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Camille Lore, IS Business Automation Analyst

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

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Signature of first-line supervisor _____ Date _____

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Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

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AMERICAN OVERSIGHT

Wisconsin Elections Commission
Attorney

Position Summary

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Duties and Responsibilities

30%

A. Provide legal advice to the Commission and staff, along with authoritative and timely advice and information on the application of laws, rules and regulations under the agency's jurisdiction to candidates, state and local election officials, state public officials and members of the public.

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AMERICAN OVERSIGHT

7. Prepare formal opinions issued by the Commission and informal opinions as directed by the Commission or Administrator.

8. Prepare and present information and training programs and materials for agency clientele and the public.

9. Assist in the development, review, and revision of forms, manuals, procedures and publications of the agency and administer the agency guidance document review and approval process.

20%

B. Administer the statutorily required process for complaints submitted to the Commission alleging violations of election law.

1. Develop and revise procedures for processing complaints filed with the agency and conducting research of complaints.

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20%

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2. Assist the office of the Attorney General when legal action has been brought against the Commission or staff.

3. Represent the agency in state and federal courts in cases where the Attorney General does not represent the Commission.

AMERICAN OVERSIGHT

4. Serve as liaison between agency counsel and the Commission and Administrator.

5. Draft pleadings and other legal filings in support of agency litigation matters.

6. Review and provide feedback for legal filings made on behalf of agency counsel.

7. Provide timely litigation updates to the Commission and Administrator.

8. Maintain agency litigation and enforcement files and records.

20%

D. Provide legislative support services for the agency.

1. Identify areas for remedial legislation and make recommendations to the Commission and Administrator for proposed legislative changes.

2. Review legislative drafts prepared by the Legislative Reference Bureau and assisting drafting proposed legislation.

3. Represent agency at legislative and agency hearings as assigned by Administrator.

4. Monitor and analyze legislation related to laws, rules and regulations under the agency's jurisdiction and other matters related to the agency.

5. Prepare assigned bill analyses and fiscal estimates.

6. Work and consult with Commission members, staff, legislators, legislative committees and others on proposed legislative changes with respect to subject areas of laws, rules and regulations under the agency's jurisdiction.

10%

E. Implement administrative rule making authority and responsibilities of agency.

1. Draft rules following procedures established by the Legislative Clearinghouse for the preparation and review of administrative rules.

2. Prepare new rules required by law or directed by the Commission.

3. Revise agency administrative code, maintaining consistency with statutory changes.

4. Carryout promulgation responsibilities to assure enactment of agency rules.

5. Identify areas for rule development.

6. Review rules with Commission, Administrator, and staff.

AMERICAN OVERSIGHT

Special Notes:

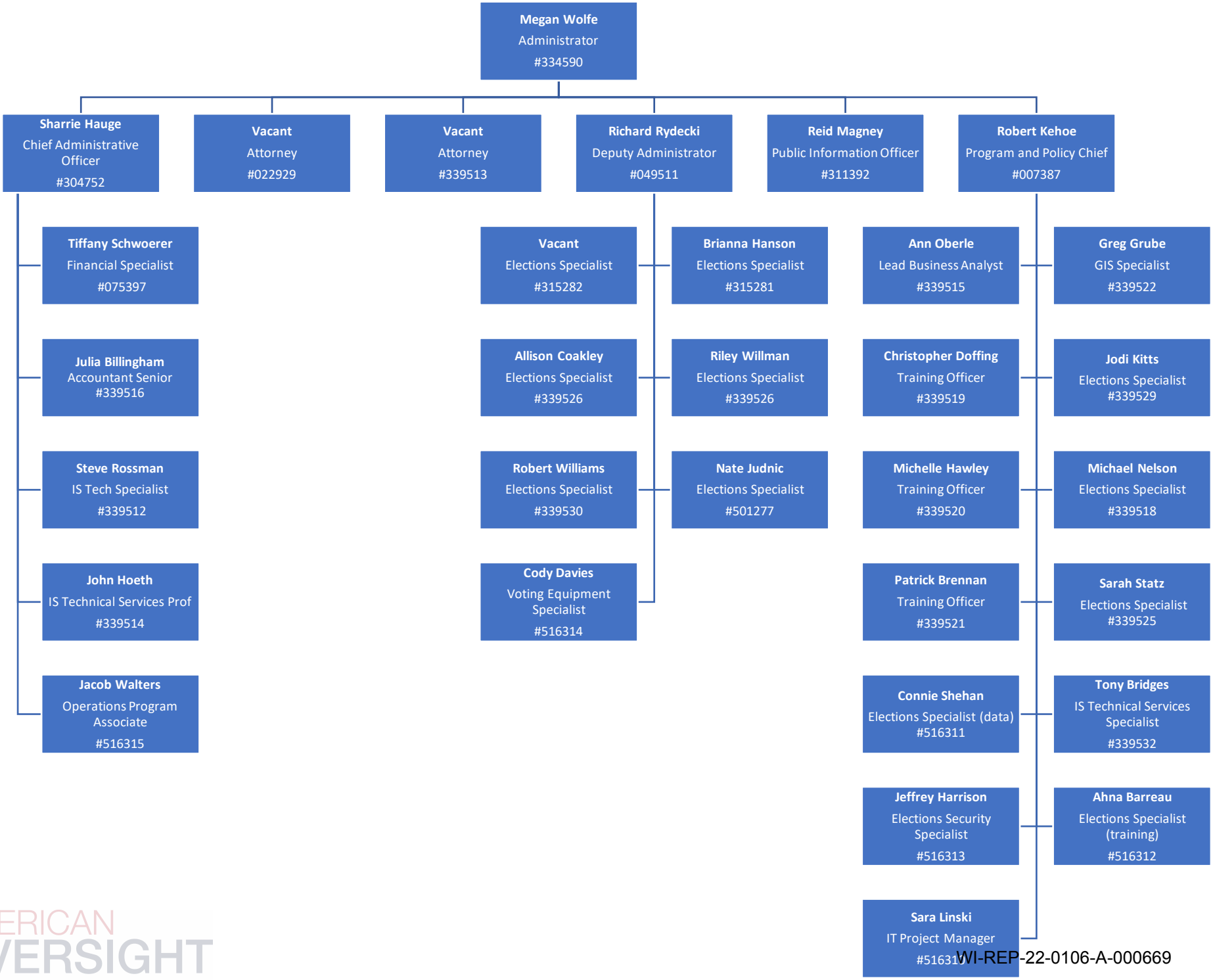
Candidates must possess a law degree from an accredited law school and be eligible to be licensed to practice law in the State of Wisconsin.

The selected candidate must not have given a contribution to a partisan campaign or candidate twelve months prior to the appointment.

Job Knowledge, Skills and Abilities:

1. Excellent communication skills (verbal and written).
2. Ability to translate complex, technical information, and/or processes to clients.
3. Knowledge and familiarity with administrative law.
4. Knowledge and familiarity in elections law.
5. Basic legal skills pertaining to legal issue analysis, legal writing skills, representation, and oral advocacy.
6. Ability to work independently and be self-motivated.
7. Ability to problem solve and employ analytical abilities to provide innovative professional judgement in analyses and decisions.
8. Ability to effectively prioritize workload and adapt to changing priorities.

AMERICAN OVERSIGHT



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
007387	19-048P	510

4. NAME OF EMPLOYEE
Robert Kehoe

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave #3
Madison, WI 53713

6. CLASSIFICATION TITLE OF POSITION
Program & Policy Chief

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Richard Rydecki

9. AGENCY WORKING TITLE OF POSITION
Technology & Training Director

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
10/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☑ No ☐
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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(Please initial and date attachments.)

Signature of first-line supervisor Meagan Wolfe Date 10/25/18

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 10/25/18

18. Signature of Human Resources Manager Brock Flowers Date 11/12/2018

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AMERICAN OVERSIGHT

Wisconsin Elections Commission

Position Description
Program and Policy Chief
(Technology and Training Director)

A GPR-Funded Permanent Position
Position #007387

Position Summary

Under the general supervision of the Elections Commission Administrator, this position provides an array of executive-level policy, management and professional services to the Administrator, the Commission, and the Commission's team that manages agency information technology applications. This position will be responsible for the management of the team of Election Specialists and Trainers that supports the WisVote voter registration database and election management system. Team members are responsible for the continued development and maintenance of the system as well as providing customer support and training for existing and new users. This team also maintains additional existing information technology applications and evaluates potential projects in response to agency needs, emerging policies, programs and legislative initiatives. This position develops and coordinates policies and procedures, sets goal and performance objectives, and develops and implements program assessment tools for agency information technology initiatives in conjunction with the management team.

Duties and Responsibilities

40%

A. Provide leadership and direction to the internal team that supports agency information technology initiatives to prioritize tasks and ensure timely and strategic completion of agency initiatives

   1. Direct and oversee the following tasks and responsibilities: Monitor and evaluate the effectiveness of information technology staff in implementing agency tasks and responsibilities. Prepare status reports and annual summaries. Recommend hiring of staff, evaluate performance and manage personnel issues

   2. Plan, organize and supervise agency information technology development projects and serve as chief agency liaison with the Department of Administration, Division of Enterprise Technology.

   3. Supervise the preparation of statistical and other informational reports prepared on behalf of the agency.

   4. Direct activities of systems analysts, programmers and database administrators retained to assist in developing and updating the program applications of the agency's information technology system.

AMERICAN OVERSIGHT

5. Identify program changes and updates in the agency's information technology system as necessary to meet the Board's statutory responsibilities in reporting and certifying election results.

6. Coordinate the evaluation and recommendations for enhancements to agency information technology system.

7. Review and recommend the updating of Memoranda of Agreements with the Department of Administration/Division of Enterprise Technology, the Department of Transportation, and the Department of Health Services.

25%

B. Identify, assess, recommend and develop election Policies, Programs and Legislative Initiatives

1. Research and review state and national election administration trends and issues, and make recommendations related to their implementation and effects.

2. Analyze existing laws and proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in the preparation of fiscal estimates related to proposed legislation and responding to legislative inquiries.

25%

C. Serve as Integral Member of Agency's Management Team

1. Participate in agency management discussions and decision making. Make recommendations to the Administrator, management team and the Elections Commission.

2. Participate in hiring process for agency staff and provide mentoring and any required disciplinary processes.

3. Represent the agency in a variety of public settings and venues.

4. Complete other tasks as assigned by the Administrator or Elections Commission.

10%

D. Manage the Effectiveness of Special Projects on behalf of the Elections Commission

1. Develop a protocol for monitoring and evaluating the effectiveness of special projects and ad-hoc assignments as required by the Elections Commission Administrator.

2. Prepare status reports and annual summaries of activities, achievements and impacts under this section as required by the Elections Commission Administrator.

<u>Required Knowledge, Skills and Abilities</u>:

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1. Considerable knowledge of the principles of information technology program development and management, and knowledge of software platforms, such as Microsoft Dynamics CRM

2. Working knowledge of election laws, administrative rules and basic policies, methods and procedures as they relate to election administration

3. Ability to provide leadership in a team setting, to plan, organize, and prioritize workloads, and to delegate effectively; strong analytical and strategic planning skills

4. Effective communication skills; ability to speak and write effectively

5. Ability to demonstrate initiative and independence in managing tasks, and completing or ensuring completion on-time

6. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public

7. Able to travel as required

8. Experience applying supervisory principles

9. Ability to plan, organize and prioritize workload

10. Strong analytical and strategic planning skills

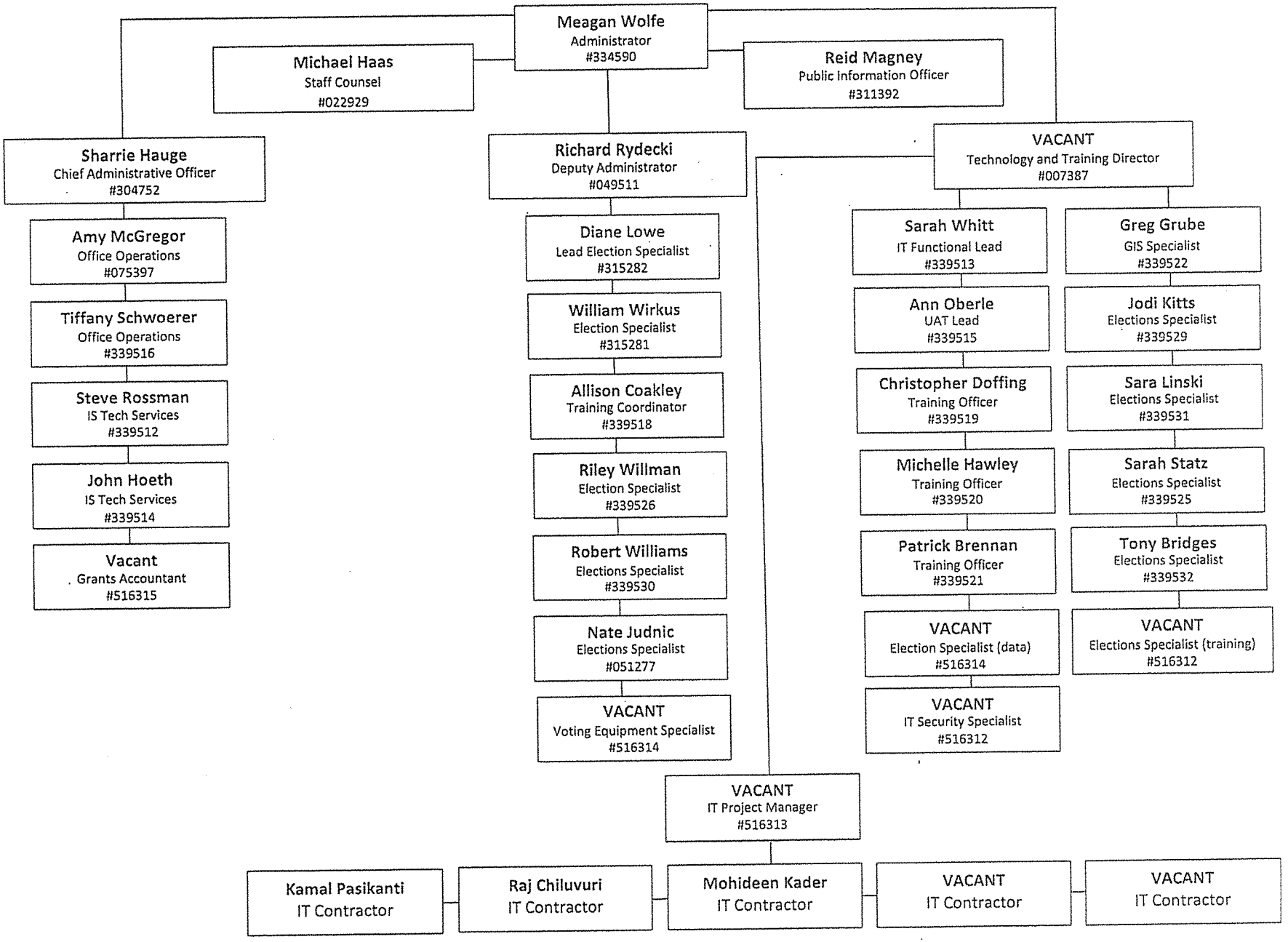
Special Requirements

Must possess a valid Wisconsin driver license that is able to satisfy the Wisconsin Department of Administration's Risk Management requirements, or have the ability to provide one's own transportation

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000674

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL MANAGEMENT
DOA-15316 (C07/2015)
S. 230.09 WIS. STATS.
PREVIOUSLY OSER-DCLR-84

COMPENSATION & LABOR RELATIONS
101 E. WILSON ST, 4TH FL
MADISON, WI 53703

Supervisor Exclusion Analysis

This information is to be provided by the position's supervisor and reviewed by the agency central office human resources representative for both filled and vacant positions and must be submitted as part of any position description (PD) for a position performing supervisory responsibilities (i.e., if # 13 of the PD is checked YES). This information will be used to determine (1) if the position is performing supervisory functions and thus should be allocated to a supervisory classification and (2) what supervisory classification is appropriate based on the total duties of the position.

According to s. 111.81(19), Wis. Stats., a supervisor is any individual "who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline employees, or to adjust their grievances, or to authoritatively recommend such actions" and "whose principal work is different from that of the subordinates." The criteria used by the Wisconsin Employment Relations Commission (WERC) to apply this definition include: the authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees; the authority to direct and assign the workforce; the number of employees supervised (typically a minimum of 3 FTE permanent employees); the amount of time spent supervising; the number of other persons exercising greater, similar or lesser degrees of authority over the same employees; the level of pay, including an evaluation of whether the supervisor is paid for skill or supervision of employees; whether the supervisor is primarily supervising an activity or is primarily supervising employees performing the activity; whether the supervisor is a working supervisor or whether he/she spends a substantial majority of his/her time supervising employees; and the amount of independent judgment and discretion exercised in the supervision of employees. The WERC ultimately determines the appropriateness of supervisory exclusions.

Position Identification Data

1. Name of Employee (if filled): Robert Kehoe
2. Civil Service Classification: Program & Policy Chief
3. Department and Division: WI Elections Commission
4. Bureau, Section and Unit (or comparable):
5. Name and Classification of Supervisor: Meagan Wolfe, Administrator
6. Name and Complete Civil Service Title of Former Incumbent (if any): Richard Rydecki, Program & Policy Supervisor

7. Supervisory Responsibilities

   a. In view of the definition statement and criteria listed in the second paragraph of this form, does the incumbent of this position:

      (1) have the responsibility for directly supervising the activities of other classified employees? YES ☐ NO ☐

      (2) have the responsibility for supervising the activities of lower level supervisors? YES ☐ NO ☐

      (3) meet the definition statement and criteria? YES ☐ NO ☐

   b. List the official classification titles and number of permanent classified employees (full or part-time) directly supervised by the incumbent. If this position supervises lower level supervisors, indicate the number of employees supervised by the lower level position(s) in parentheses after the classification title of the position. (NOTE: LTE, student, patient/inmate, volunteer, and unclassified employees should be specifically identified since the direction of these individuals is not considered to warrant supervisory status.)

      18 TOTAL EMPLOYEES: IT Functional Lead (1); UAT Lead (1); GIS Specialist (1); Elections Specialist Senior (2); Elections Specialis
      Training Officer (3); IT Project Manager (1); Elections Security Lead (1); Contracted Developers (4). ALL POSITIONS FULL TIME.

(OVER)

AMERICAN OVERSIGHT

DOA-15316 (C07/2015) CONTINUED

Supervisor Exclusion Analysis

c. What percentage of this position's total time is allocated to each of the following?

1) Supervisory functions (i.e. hiring, dismissing, disciplining employees, evaluating performance, settling grievances)?	30%
2) Activities relating to supervisory responsibilities (i.e., establishing operating procedures, reviewing work of subordinates, counseling subordinates on performance, training and orienting new employees, performing related administrative functions, etc.)?	40%
3) Performance of other work activities similar to those of the employees supervised?	10%
4) Performance of other non-supervisory work activities different from those of the employees supervised (including program administration)?	20%
*NOTE: The totals of c.1), 2), 3), and 4) must equal 100%.	100% *100%

8. Organizational Relationships

List (in order of descending authority) the names and classification titles of all other positions in the employing unit in the chain of command over the employees listed in 7.b.

1 position: Meagan Wolfe, Administrator

A copy of the organizational chart must be attached for the immediate work unit (i.e., the organizational unit which includes the employees supervised), including the names and classifications of all employees.

9. Supervisory Activities

Is this position identified as a formal step in the employee grievance procedure? YES ☑ NO ☐
(If no, list below the name and classification of the first formal step in the grievance procedures for the employees listed in 7.b.)

A signature below means the position has been reviewed and you have concluded it meets the definition of supervisor found in s. 111.81 (19), Wis. Stats.

Supervisor Meagan M Wolfe Date 11/6/18

Human Resources Representative Brock Flowers Date 11/12/2018

To be completed by Incumbent (for filled positions):

- I agree with the preceding statements. RyL
- I do not feel that the preceding statements are accurate for the reasons indicated below.
- No Comment

Employee Signature [signature] Date 11/6/18

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STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL MANAGEMENT
DOA-15317 (C07/2015)
STATS. 230.09 WIS. STATS.
PREVIOUSLY OSER-DCLR-85

COMPENSATION & LABOR RELATIONS
101 E. WILSON ST, 4TH FL
MADISON, WI 53703

Management Exclusion Analysis

This analysis should be completed by the position's supervisor and reviewed by the agency human resources representative prior to classifying a position as "management." The information will be used to assist in determining if the position is performing duties which support inclusion of the position in a career executive or other management classification, resulting in exclusion of the position from bargaining unit representation.

Wisconsin Statute s. 111.81(13), excludes management personnel from the definition of employee for collective bargaining purposes. Section 111.81(13) defines "management" to include "those personnel engaged predominately in executive and managerial functions, including such officials as division administrators, bureau directors, institution heads, and employees exercising similar functions and responsibilities as determined by the [Wisconsin Employment Relations] Commission."

The Commission referenced above is the Wisconsin Employment Relations Commission (WERC) which, under s. 111.825(3), assigns eligible employees to the appropriate bargaining units and ultimately determines the appropriateness of management exclusions.

Position Identification Data

1. Name of Employee (if filled): Robert Kehoe
2. Civil Service Classification: Program & Policy Chief
3. Department and Division: WI Elections Commission
4. Bureau, Section, and Unit (or comparable):
5. Name and Classification of Supervisor: Meagan Wolfe, Administrator
6. Name and Complete Civil Service Title of Former Incumbent (if any): Richard Rydecki, Program & Policy Supervisor

In Case 33, No. 16403, SE-65, Decision No. 11640-C, the WERC used the following criteria in determining if employees were management. (Some of the statements are interpretations of statements made by the WERC rather than statements actually made in the decision.)

7. If the employee is a division administrator, bureau director, or institution head, the employee is, per se, management.

8. If the employee is not a division administrator, bureau director, or institution head, and if the employee is engaged predominately in executive and managerial functions similar to those engaged in by division administrators, bureau directors, or institution heads, the employee is management.

   "Predominate function" is defined as the primary duties performed by the employee. If the primary duty is to provide legal services or supervise and review the work of others for compliance with established policy, the employee is not engaged predominately in executive and management functions, even though some of the time is spent in formulation, determination, and implementation of management policy. Predominate functions may be based on importance or percent of time spent. Generally, percent of time spent will be the determining factor.

(OVER)

AMERICAN OVERSIGHT

DOA-15317 (C07/2015) CONTINUED

Management Exclusion Analysis

"Executive and management functions" are defined as:

a. participation in a significant manner in the formulation, determination, and implementation of management policy; or,

b. effective authority to commit the employer's resources.

To participate in a significant manner in the formulation, determination, and implementation of management policy, the employee must have greater authority than merely offering advice to higher-level management which may accept or reject the recommendation, or must do more than serving on a management team/committee which must reach consensus. Formulation, determination, and implementation of management policy must be the primary duty of the employee and must be at a level similar to that exercised by division administrators, bureau directors, and institution heads.

Case 33 did not address the resource commitment aspect of the executive and managerial functions. In municipal sector cases, the WERC has defined this aspect as the exercise of effective authority to commit the employer's resources such as through exercise of authority to establish an original budget or to allocate funds for differing program purposes from such an original budget when the purpose of such funds has not been previously specified.

9. Rationale for the above conclusion (use additional paper if necessary):

Employee is a member of the management team allocating over 70% of his time to executive and management functions as described above in paragraphs 8 (a) and (b).

A signature below means the position has been reviewed and you have concluded it meets the definition of management found in s. 111.81(13), Wis. Stats.

Supervisor Signature Morgan M Wolfe Date 11/6/18

Human Resources Representative Brock Flowers Date 11/12/2018

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
007387	19-048P	510

4. NAME OF EMPLOYEE
Robert Kehoe

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave #3
Madison, WI 53713

6. CLASSIFICATION TITLE OF POSITION
Program & Policy Chief

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Richard Rydecki

9. AGENCY WORKING TITLE OF POSITION
Technology & Training Director

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
10/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☑ No ☐
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See Attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See attached

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Meagan Wolfe Date 10/25/18

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 10/25/18

18. Signature of Human Resources Manager Brock Flowers Date 11/12/2018

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

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Wisconsin Elections Commission

Position Description
Program and Policy Chief
(Technology and Training Director)

A GPR-Funded Permanent Position
Position #007387

Position Summary

Under the general supervision of the Elections Commission Administrator, this position provides an array of executive-level policy, management and professional services to the Administrator, the Commission, and the Commission's team that manages agency information technology applications. This position will be responsible for the management of the team of Election Specialists and Trainers that supports the WisVote voter registration database and election management system. Team members are responsible for the continued development and maintenance of the system as well as providing customer support and training for existing and new users. This team also maintains additional existing information technology applications and evaluates potential projects in response to agency needs, emerging policies, programs and legislative initiatives. This position develops and coordinates policies and procedures, sets goal and performance objectives, and develops and implements program assessment tools for agency information technology initiatives in conjunction with the management team.

Duties and Responsibilities

40%

A. Provide leadership and direction to the internal team that supports agency information technology initiatives to prioritize tasks and ensure timely and strategic completion of agency initiatives

   1. Direct and oversee the following tasks and responsibilities: Monitor and evaluate the effectiveness of information technology staff in implementing agency tasks and responsibilities. Prepare status reports and annual summaries. Recommend hiring of staff, evaluate performance and manage personnel issues

   2. Plan, organize and supervise agency information technology development projects and serve as chief agency liaison with the Department of Administration, Division of Enterprise Technology.

   3. Supervise the preparation of statistical and other informational reports prepared on behalf of the agency.

   4. Direct activities of systems analysts, programmers and database administrators retained to assist in developing and updating the program applications of the agency's information technology system.

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5. Identify program changes and updates in the agency's information technology system as necessary to meet the Board's statutory responsibilities in reporting and certifying election results.

6. Coordinate the evaluation and recommendations for enhancements to agency information technology system.

7. Review and recommend the updating of Memoranda of Agreements with the Department of Administration/Division of Enterprise Technology, the Department of Transportation, and the Department of Health Services.

25%

B. Identify, assess, recommend and develop election Policies, Programs and Legislative Initiatives

1. Research and review state and national election administration trends and issues, and make recommendations related to their implementation and effects.

2. Analyze existing laws and proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in the preparation of fiscal estimates related to proposed legislation and responding to legislative inquiries.

25%

C. Serve as Integral Member of Agency's Management Team

1. Participate in agency management discussions and decision making. Make recommendations to the Administrator, management team and the Elections Commission.

2. Participate in hiring process for agency staff and provide mentoring and any required disciplinary processes.

3. Represent the agency in a variety of public settings and venues.

4. Complete other tasks as assigned by the Administrator or Elections Commission.

10%

D. Manage the Effectiveness of Special Projects on behalf of the Elections Commission

1. Develop a protocol for monitoring and evaluating the effectiveness of special projects and ad-hoc assignments as required by the Elections Commission Administrator.

2. Prepare status reports and annual summaries of activities, achievements and impacts under this section as required by the Elections Commission Administrator.

<u>Required Knowledge, Skills and Abilities</u>:

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1. Considerable knowledge of the principles of information technology program development and management, and knowledge of software platforms, such as Microsoft Dynamics CRM

2. Working knowledge of election laws, administrative rules and basic policies, methods and procedures as they relate to election administration

3. Ability to provide leadership in a team setting, to plan, organize, and prioritize workloads, and to delegate effectively; strong analytical and strategic planning skills

4. Effective communication skills; ability to speak and write effectively

5. Ability to demonstrate initiative and independence in managing tasks, and completing or ensuring completion on-time

6. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public

7. Able to travel as required

8. Experience applying supervisory principles

9. Ability to plan, organize and prioritize workload

10. Strong analytical and strategic planning skills

Special Requirements

Must possess a valid Wisconsin driver license that is able to satisfy the Wisconsin Department of Administration's Risk Management requirements, or have the ability to provide one's own transportation

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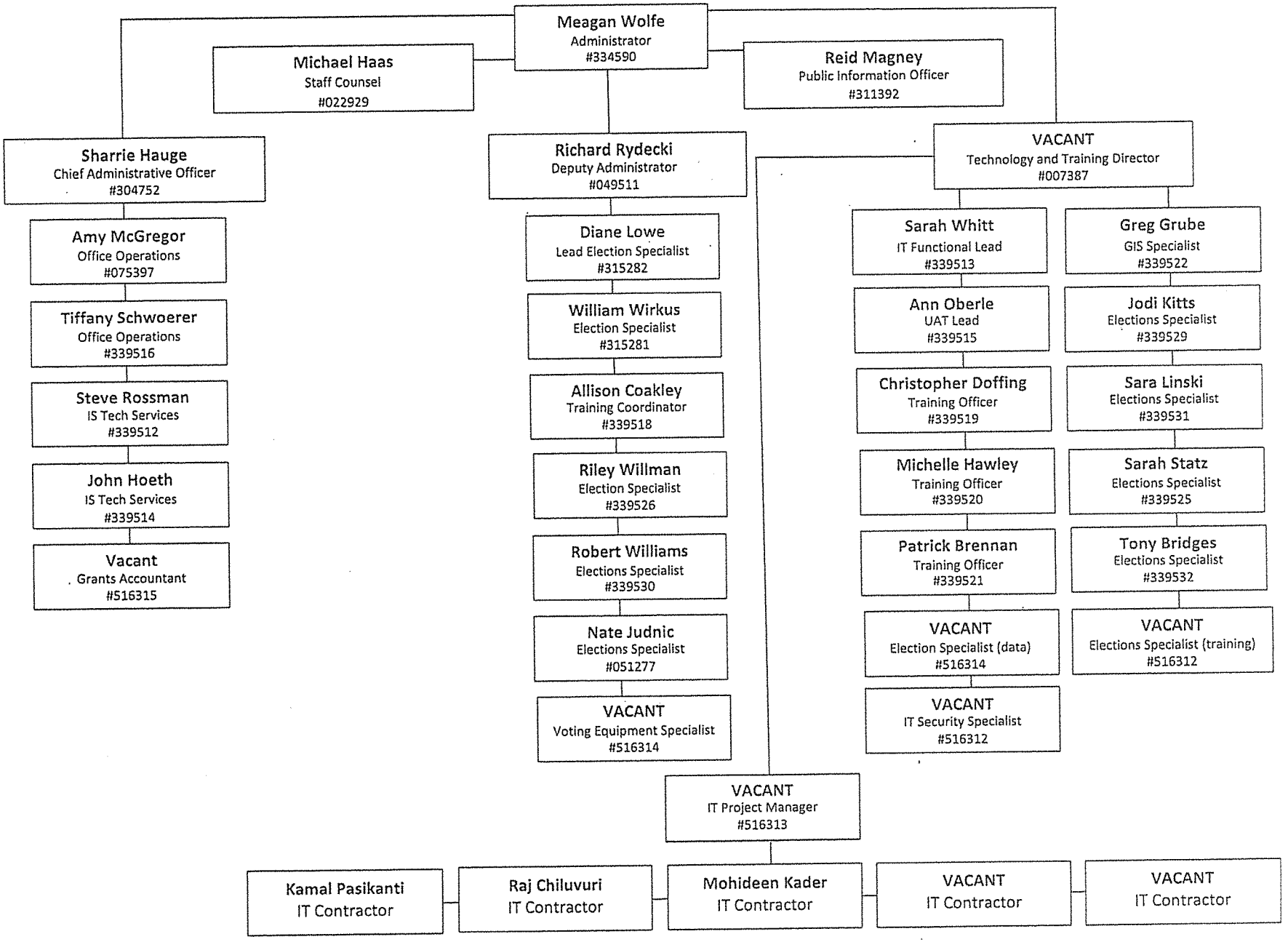
WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000683

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL MANAGEMENT
DOA-15316 (C07/2015)
S. 230.09 WIS. STATS.
PREVIOUSLY OSER-DCLR-84

COMPENSATION & LABOR RELATIONS
101 E. WILSON ST, 4TH FL
MADISON, WI 53703

Supervisor Exclusion Analysis

This information is to be provided by the position's supervisor and reviewed by the agency central office human resources representative for both filled and vacant positions and must be submitted as part of any position description (PD) for a position performing supervisory responsibilities (i.e., if # 13 of the PD is checked YES). This information will be used to determine (1) if the position is performing supervisory functions and thus should be allocated to a supervisory classification and (2) what supervisory classification is appropriate based on the total duties of the position.

According to s. 111.81(19), Wis. Stats., a supervisor is any individual "who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline employees, or to adjust their grievances, or to authoritatively recommend such actions" and "whose principal work is different from that of the subordinates." The criteria used by the Wisconsin Employment Relations Commission (WERC) to apply this definition include: the authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees; the authority to direct and assign the workforce; the number of employees supervised (typically a minimum of 3 FTE permanent employees); the amount of time spent supervising; the number of other persons exercising greater, similar or lesser degrees of authority over the same employees; the level of pay, including an evaluation of whether the supervisor is paid for skill or supervision of employees; whether the supervisor is primarily supervising an activity or is primarily supervising employees performing the activity; whether the supervisor is a working supervisor or whether he/she spends a substantial majority of his/her time supervising employees; and the amount of independent judgment and discretion exercised in the supervision of employees. The WERC ultimately determines the appropriateness of supervisory exclusions.

Position Identification Data

1. Name of Employee (if filled): Robert Kehoe
2. Civil Service Classification: Program & Policy Chief
3. Department and Division: WI Elections Commission
4. Bureau, Section and Unit (or comparable):
5. Name and Classification of Supervisor: Meagan Wolfe, Administrator
6. Name and Complete Civil Service Title of Former Incumbent (if any): Richard Rydecki, Program & Policy Supervisor

7. Supervisory Responsibilities

   a. In view of the definition statement and criteria listed in the second paragraph of this form, does the incumbent of this position:

      (1) have the responsibility for directly supervising the activities of other classified employees? YES ☐ NO ☐

      (2) have the responsibility for supervising the activities of lower level supervisors? YES ☐ NO ☐

      (3) meet the definition statement and criteria? YES ☐ NO ☐

   b. List the official classification titles and number of permanent classified employees (full or part-time) directly supervised by the incumbent. If this position supervises lower level supervisors, indicate the number of employees supervised by the lower level position(s) in parentheses after the classification title of the position. (NOTE: LTE, student, patient/inmate, volunteer, and unclassified employees should be specifically identified since the direction of these individuals is not considered to warrant supervisory status.)

      18 TOTAL EMPLOYEES: IT Functional Lead (1); UAT Lead (1); GIS Specialist (1); Elections Specialist Senior (2); Elections Specialis
      Training Officer (3); IT Project Manager (1); Elections Security Lead (1); Contracted Developers (4). ALL POSITIONS FULL TIME.

(OVER)

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DOA-15316 (C07/2015) CONTINUED

Supervisor Exclusion Analysis

c. What percentage of this position's total time is allocated to each of the following?

1) Supervisory functions (i.e. hiring, dismissing, disciplining employees, evaluating performance, settling grievances)?	30%
2) Activities relating to supervisory responsibilities (i.e., establishing operating procedures, reviewing work of subordinates, counseling subordinates on performance, training and orienting new employees, performing related administrative functions, etc.)?	40%
3) Performance of other work activities similar to those of the employees supervised?	10%
4) Performance of other non-supervisory work activities different from those of the employees supervised (including program administration)?	20%
*NOTE: The totals of c.1), 2), 3), and 4) must equal 100%.	100% *100%

8. Organizational Relationships

List (in order of descending authority) the names and classification titles of all other positions in the employing unit in the chain of command over the employees listed in 7.b.

1 position: Meagan Wolfe, Administrator

A copy of the organizational chart must be attached for the immediate work unit (i.e., the organizational unit which includes the employees supervised), including the names and classifications of all employees.

9. Supervisory Activities

Is this position identified as a formal step in the employee grievance procedure? YES ☑ NO ☐
(If no, list below the name and classification of the first formal step in the grievance procedures for the employees listed in 7.b.)

A signature below means the position has been reviewed and you have concluded it meets the definition of supervisor found in s. 111.81 (19), Wis. Stats.

Supervisor Meagan M Wolfe Date 11/6/18

Human Resources Representative Brock Flowers Date 11/12/2018

To be completed by Incumbent (for filled positions):

- I agree with the preceding statements. RyL
- I do not feel that the preceding statements are accurate for the reasons indicated below.
- No Comment

Employee Signature [signature] Date 11/6/18

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STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL MANAGEMENT
DOA-15317 (C07/2015)
STATS. 230.09 WIS. STATS.
PREVIOUSLY OSER-DCLR-85

COMPENSATION & LABOR RELATIONS
101 E. WILSON ST, 4TH FL
MADISON, WI 53703

Management Exclusion Analysis

This analysis should be completed by the position's supervisor and reviewed by the agency human resources representative prior to classifying a position as "management." The information will be used to assist in determining if the position is performing duties which support inclusion of the position in a career executive or other management classification, resulting in exclusion of the position from bargaining unit representation.

Wisconsin Statute s. 111.81(13), excludes management personnel from the definition of employee for collective bargaining purposes. Section 111.81(13) defines "management" to include "those personnel engaged predominately in executive and managerial functions, including such officials as division administrators, bureau directors, institution heads, and employees exercising similar functions and responsibilities as determined by the [Wisconsin Employment Relations] Commission."

The Commission referenced above is the Wisconsin Employment Relations Commission (WERC) which, under s. 111.825(3), assigns eligible employees to the appropriate bargaining units and ultimately determines the appropriateness of management exclusions.

Position Identification Data

1. Name of Employee (if filled): Robert Kehoe
2. Civil Service Classification: Program & Policy Chief
3. Department and Division: WI Elections Commission
4. Bureau, Section, and Unit (or comparable):
5. Name and Classification of Supervisor: Meagan Wolfe, Administrator
6. Name and Complete Civil Service Title of Former Incumbent (if any): Richard Rydecki, Program & Policy Supervisor

In Case 33, No. 16403, SE-65, Decision No. 11640-C, the WERC used the following criteria in determining if employees were management. (Some of the statements are interpretations of statements made by the WERC rather than statements actually made in the decision.)

7. If the employee is a division administrator, bureau director, or institution head, the employee is, per se, management.

8. If the employee is not a division administrator, bureau director, or institution head, and if the employee is engaged predominately in executive and managerial functions similar to those engaged in by division administrators, bureau directors, or institution heads, the employee is management.

   "Predominate function" is defined as the primary duties performed by the employee. If the primary duty is to provide legal services or supervise and review the work of others for compliance with established policy, the employee is not engaged predominately in executive and management functions, even though some of the time is spent in formulation, determination, and implementation of management policy. Predominate functions may be based on importance or percent of time spent. Generally, percent of time spent will be the determining factor.

(OVER)

AMERICAN OVERSIGHT
WI-REP-22-0106-A-000686

DOA-15317 (C07/2015) CONTINUED

Management Exclusion Analysis

"Executive and management functions" are defined as:

a. participation in a significant manner in the formulation, determination, and implementation of management policy; or,

b. effective authority to commit the employer's resources.

To participate in a significant manner in the formulation, determination, and implementation of management policy, the employee must have greater authority than merely offering advice to higher-level management which may accept or reject the recommendation, or must do more than serving on a management team/committee which must reach consensus. Formulation, determination, and implementation of management policy must be the primary duty of the employee and must be at a level similar to that exercised by division administrators, bureau directors, and institution heads.

Case 33 did not address the resource commitment aspect of the executive and managerial functions. In municipal sector cases, the WERC has defined this aspect as the exercise of effective authority to commit the employer's resources such as through exercise of authority to establish an original budget or to allocate funds for differing program purposes from such an original budget when the purpose of such funds has not been previously specified.

9. Rationale for the above conclusion (use additional paper if necessary):

Employee is a member of the management team allocating over 70% of his time to executive and management functions as described above in paragraphs 8 (a) and (b).

A signature below means the position has been reviewed and you have concluded it meets the definition of management found in s. 111.81(13), Wis. Stats.

Supervisor Signature Morgan M Wolfe Date 11/6/18

Human Resources Representative Brock Flowers Date 11/12/2018

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339529	18-049R	510

4. NAME OF EMPLOYEE
Jodi L. Kitts

5. DEPARTMENT, UNIT, WORK ADDRESS
Elections Commission
212 E Washington Avenue
Madison, WI

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Senior

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Assistant Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	SEE ATTACHED

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date _____

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist
(WisVote System)
Position #339529

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's Statewide Voter Registration System, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission through its Elections Division is to ensure ongoing, quality education, training, outreach, technical assistance, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends. This position includes collecting, validating, synthesizing, and reporting election and voter participation data received from nearly 2,000 jurisdictions that manage almost 3,000 polling places.

This position participates in developing a protocol to be used by WisVote and training teams for delivering education, training, and technical assistance to local election officials, and will conduct workshops, seminars and classes for users of WisVote. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Wisconsin.

Duties and Responsibilities

45%

A. Provide Technical Assistance to users of WisVote; utilizing Microsoft Dynamic CRM. Monitor quality control of WisVote tasks; utilize the Team Foundation Server to facilitate testing, upgrades and new functionalities.

1. Provide technical assistance and customer support to Local Election Officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by Local Election Officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

AMERICAN OVERSIGHT

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

30%

B. Provide education and training to Local Election Officials regarding the use of WisVote

1. Identify and assess the education and training needs of Local Election Officials for understanding the functions and management of WisVote. Keep program colleagues and agency management apprised of Local Election Officials training needs related to the use of WisVote.

2. In collaboration with Elections Specialist colleagues, develop and implement protocols for providing education, training and technical assistance to Local Officials regarding the effective use of WisVote.

3. Teach and train Local Election Officials on the proper and effective use of WisVote functionalities and management of WisVote data through in-person and other training methods.

4. Assist WisVote training staff to revise training manuals, communications, and other documents.

25%

C. Participate in implementation of the agency's election administration plan and management goals

1. Assist with carrying out WisVote initiatives and other activities included in the agency's Election Administration Plan and management goals.

2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in drafting fiscal analysis and legislative status reports.

4. Develop background information, testimony and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.

5. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public involving election administration program implementation.

6. Develop and maintain a high level working knowledge of the Agency's core business requirements related to both WisVote functionalities and Election Administration tasks and initiatives.

7. Carry out special projects and assignments as directed by supervisor and/or agency management.

AMERICAN OVERSIGHT

Knowledge, Skills, and Abilities

1. Knowledge of IS system methodologies, tools and techniques.
2. Skill in Microsoft Dynamic CRM.
3. Ability to use the State's WisVote, statewide voter registration system
4. Skill in Team Foundation Server (TFS) project management system.
5. Knowledge of election laws, administrative rules and Commission policies, methods and procedures as they relate to election administration.
6. Knowledge of training techniques. Ability to apply comprehensive knowledge of adult education concepts as well as workplace training theory, principles and practices.
7. Strong analytical and strategic planning skills; ability to plan, organize, prioritize and manage tasks
8. Strong communication skills; ability to speak and write effectively.
9. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.
10. Ability to demonstrate good professional demeanor and a consistently pleasant personality.
11. Proficient in Microsoft Office Suite.
12. Ability to travel as required.

Special Requirements

1. Must possess a valid Wisconsin driver license and meet the State's Risk Management requirements, or have the ability to provide one's own transportation.
2. Must comply with the agency's nonpartisan requirements.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

ELECTIONS COMMISSION

Sharrie Hauge
Chief Administrative Officer
#304752

Nathan Judnic
Attorney
#022929

Michael Haas
Interim Elections Administrator
#334590

Reid Magney
Public Information Officer
#311392

Vacant
Legal Associate
#339511

Vacant
Office Operations Associate
#075397

Tiffany Schwoerer
Office Operations Associate
#339516

Gamze Ligler
Accountant
#051277

Vacant
Office Operations Associate
#339517

Steve Rossman
IS Tech Services -Spec
#339512

John Hoeth
IS Tech Services - Prof
#339514

Meagan Wolfe
Deputy Administrator
#049511

Richard Rydecki
Elections Supervisor
#007387

Diane Lowe
Elections Specialist
#315282

Vacant
Elections Specialist
#315281

Allison Coakley
Training Coordinator
#339518

Vacant
Voter Services Elections Specialist
#339526

Vacant
Elections Specialist
#339523

Vacant
Accessibility Elections Specialist
#339528

Robert Williams
Elections Specialist
#339530

Jennifer Webb
Elections Specialist
#339524

Sarah Whitt
IT Lead
#339513

Ann Oberle
UAT Lead
#339515

Christopher Doffing
Training Officer
#339519

Vacant
Training Officer
#339520

Patrick Brennan
Training Officer
#339521

Greg Grube
GIS Elections Specialist
#339522

Thomas Innes
WIS VOTE Elections Specialist
#339527

Vacant
WIS VOTE Elections Specialist
#339529

Sara Linski
WIS VOTE Elections Specialist
#339531

Sarah Statz
WIS VOTE Elections Specialist
#339525

Tony Bridges
WIS VOTE Elections Specialist
#339532

Note: Federal Positions

WI-REP-22-0106-A-000692

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339529	18-049R	510

4. NAME OF EMPLOYEE

Jodi L. Kitts

5. DEPARTMENT, UNIT, WORK ADDRESS

Elections Commission
212 E Washington Avenue
Madison, WI

6. CLASSIFICATION TITLE OF POSITION

Elections Specialist - Senior

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR

Meagan Wolfe, Assistant Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	SEE ATTACHED

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date _____

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist
(WisVote System)
Position #339529

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's Statewide Voter Registration System, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission through its Elections Division is to ensure ongoing, quality education, training, outreach, technical assistance, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends. This position includes collecting, validating, synthesizing, and reporting election and voter participation data received from nearly 2,000 jurisdictions that manage almost 3,000 polling places.

This position participates in developing a protocol to be used by WisVote and training teams for delivering education, training, and technical assistance to local election officials, and will conduct workshops, seminars and classes for users of WisVote. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Wisconsin.

Duties and Responsibilities

45%

A. Provide Technical Assistance to users of WisVote; utilizing Microsoft Dynamic CRM. Monitor quality control of WisVote tasks; utilize the Team Foundation Server to facilitate testing, upgrades and new functionalities.

1. Provide technical assistance and customer support to Local Election Officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by Local Election Officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

AMERICAN OVERSIGHT

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from Local Election Officials, make recommendations for improving WisVote business processes and procedures.

30%

B. Provide education and training to Local Election Officials regarding the use of WisVote

1. Identify and assess the education and training needs of Local Election Officials for understanding the functions and management of WisVote. Keep program colleagues and agency management apprised of Local Election Officials training needs related to the use of WisVote.

2. In collaboration with Elections Specialist colleagues, develop and implement protocols for providing education, training and technical assistance to Local Officials regarding the effective use of WisVote.

3. Teach and train Local Election Officials on the proper and effective use of WisVote functionalities and management of WisVote data through in-person and other training methods.

4. Assist WisVote training staff to revise training manuals, communications, and other documents.

25%

C. Participate in implementation of the agency's election administration plan and management goals

1. Assist with carrying out WisVote initiatives and other activities included in the agency's Election Administration Plan and management goals.

2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in drafting fiscal analysis and legislative status reports.

4. Develop background information, testimony and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.

5. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public involving election administration program implementation.

6. Develop and maintain a high level working knowledge of the Agency's core business requirements related to both WisVote functionalities and Election Administration tasks and initiatives.

7. Carry out special projects and assignments as directed by supervisor and/or agency management.

AMERICAN OVERSIGHT

Knowledge, Skills, and Abilities

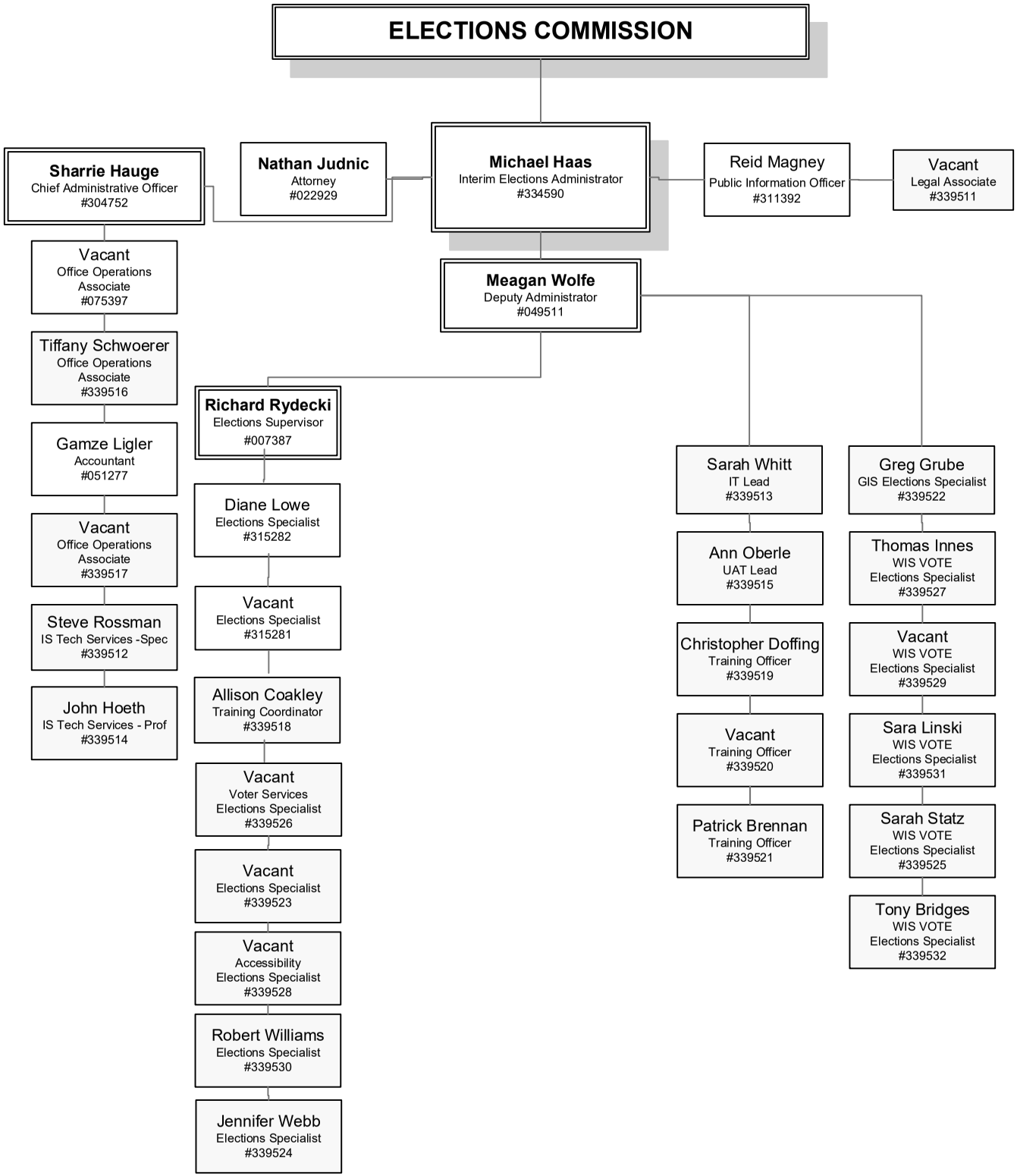
1. Knowledge of IS system methodologies, tools and techniques.
2. Skill in Microsoft Dynamic CRM.
3. Ability to use the State's WisVote, statewide voter registration system
4. Skill in Team Foundation Server (TFS) project management system.
5. Knowledge of election laws, administrative rules and Commission policies, methods and procedures as they relate to election administration.
6. Knowledge of training techniques. Ability to apply comprehensive knowledge of adult education concepts as well as workplace training theory, principles and practices.
7. Strong analytical and strategic planning skills; ability to plan, organize, prioritize and manage tasks
8. Strong communication skills; ability to speak and write effectively.
9. Ability to work in a team environment and to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, other state agency officials, and the general public.
10. Ability to demonstrate good professional demeanor and a consistently pleasant personality.
11. Proficient in Microsoft Office Suite.
12. Ability to travel as required.

Special Requirements

1. Must possess a valid Wisconsin driver license and meet the State's Risk Management requirements, or have the ability to provide one's own transportation.
2. Must comply with the agency's nonpartisan requirements.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT



Note: Federal Positions

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516310	ATTH200184	510

4. NAME OF EMPLOYEE
Aaron Knautz

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Entry

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Sara Linski, IS Technical Services Consultant/Administrator

9. AGENCY WORKING TITLE OF POSITION
Elections Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Anna Barreau, Elections Specialist

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	See attached

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ◉ limited ○ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 10/19/2020

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 1-5-21

18. Signature of Human Resources Manager Dylan Smith Date 10/29/2020

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Entry

#516310

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends.

This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. The position may also conduct in-person and online workshops, seminars and classes for users of the WisVote system and related applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

Duties and Responsibilities

45%

A. With guidance from the Assistant Administrator and Senior Staff, participate in the provision of election administration education, training, technical assistance and public outreach to local election officials and members of the public.

1. Maintain knowledge of WisVote and contribute to system updates and maintenance.

2. Assist in determining the most effective training platform for specific subject matter.

3. Develop, prepare and update WisVote training webinars, videos, manuals, training exercises and related training materials.

AMERICAN OVERSIGHT

4. Review WisVote training programs and recommend changes, revisions, updates and modification.

5. Coordinate production of on-line training materials in coordination with WEC staff, customers and partners.

6. Produce and publish step-by-step instructions for WisVote processes using electronic documents, online platforms, and online content management systems.

7. Develop, edit, and post online training videos and tutorials.

8. Incorporate election laws and procedures into training materials for local election officials.

9. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations and solicit their feedback and input regarding election administration procedures and requirements.

10. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

30%

B. Provide Technical Assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

20%

C. Technical Assistance and Quality Control of WisVote

AMERICAN OVERSIGHT

9. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

10. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

11. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

12. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

13. Assist WisVote users in the development and use of customized reports to meet office needs.

14. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

15. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

5%

D. Carry out special projects and assignments as directed by the Technology Director

1. Act as team member or team lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

2. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

3. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Experience communicating effectively through various electronic media, written communications, and in-person presentations.

2. Experience applying adult education principles and practices.

3. Substantial experience creating electronic training for web-based systems or applications.

4. Experience providing technical support for web-based applications.

AMERICAN OVERSIGHT

5. Ability to conduct research, gather information, and analyze a variety of data.

6. Knowledge of training needs assessments, evaluation, and analysis techniques.

7. Ability to become proficient in the WisVote statewide voter registration system and related applications.

8. Ability to plan, organize, prioritize and manage tasks.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516310	ATTH200184	510

4. NAME OF EMPLOYEE
Aaron Knautz

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Entry

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Sara Linski, IS Technical Services Consultant/Administrator

9. AGENCY WORKING TITLE OF POSITION
Elections Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Anna Barreau, Elections Specialist

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

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— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See attached

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ◉ limited ○ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor [signature] Date 10/19/2020

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 1-5-21

18. Signature of Human Resources Manager Dylan Smith Date 10/29/2020

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Entry

#516310

Position Summary

This is an Elections Specialist position focused on working in, and providing services regarding, Wisconsin's statewide voter registration system, WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote. It is responsible for applying election laws, administrative rules, and Commission policies related to voter registration, the conduct of elections, and recording voter participation.

A basic and core requirement of the Commission, and customer service to 1,852 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) that conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends.

This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. The position may also conduct in-person and online workshops, seminars and classes for users of the WisVote system and related applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

Duties and Responsibilities

45%

A. With guidance from the Assistant Administrator and Senior Staff, participate in the provision of election administration education, training, technical assistance and public outreach to local election officials and members of the public.

1. Maintain knowledge of WisVote and contribute to system updates and maintenance.

2. Assist in determining the most effective training platform for specific subject matter.

3. Develop, prepare and update WisVote training webinars, videos, manuals, training exercises and related training materials.

AMERICAN OVERSIGHT

4. Review WisVote training programs and recommend changes, revisions, updates and modification.

5. Coordinate production of on-line training materials in coordination with WEC staff, customers and partners.

6. Produce and publish step-by-step instructions for WisVote processes using electronic documents, online platforms, and online content management systems.

7. Develop, edit, and post online training videos and tutorials.

8. Incorporate election laws and procedures into training materials for local election officials.

9. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations and solicit their feedback and input regarding election administration procedures and requirements.

10. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

30%

B. Provide Technical Assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

20%

C. Technical Assistance and Quality Control of WisVote

AMERICAN OVERSIGHT

9. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

10. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

11. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

12. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

13. Assist WisVote users in the development and use of customized reports to meet office needs.

14. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

15. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

5%

D. Carry out special projects and assignments as directed by the Technology Director

1. Act as team member or team lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

2. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

3. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Experience communicating effectively through various electronic media, written communications, and in-person presentations.

2. Experience applying adult education principles and practices.

3. Substantial experience creating electronic training for web-based systems or applications.

4. Experience providing technical support for web-based applications.

AMERICAN OVERSIGHT

5. Ability to conduct research, gather information, and analyze a variety of data.

6. Knowledge of training needs assessments, evaluation, and analysis techniques.

7. Ability to become proficient in the WisVote statewide voter registration system and related applications.

8. Ability to plan, organize, prioritize and manage tasks.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

OSER-DMRS-10 (Rev. 08-2013)
State of Wisconsin
Office of State Employment Relations

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
311392	14-328	511

4. NAME OF EMPLOYEE
Reid T. Magney

5. DEPARTMENT, UNIT, WORK ADDRESS
Government Accountability Board
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Communications Specialist - Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION
Public Information Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Kevin J. Kennedy, Director and General Counsel

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM (OSER-DCLR-84).

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
Please see attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	Please see attached.

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 7/10/14

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee Reid Magney Date 7/11/14

18. Signature of Human Resources Manager Kay Wm. Kraus Date 07.09.14

DISTRIBUTE COPIES OF SIGNED FORM TO:
☑ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD
Communications Specialist – Senior

Agency Working Title: Public Information Officer
(Position #311392)

POSITION SUMMARY

Under the general supervision of the agency Director and General Counsel, Wisconsin's Chief Election Official, this position is the primary staff for developing the agency's media relations and implementation strategies. This position promotes and advances the agency's mission and story by informing the media, public, agency elections partners, elected officials and constituents about a variety of agency program and policy initiatives, issues and concerns. The position is an active participant on the team that oversees the agency's public communication programs.

This position is more than the typical spokesperson for the agency, this position is expected to develop, coordinate, and expedite the agency's communications to the media and members of the public through a variety of information outreach programs and protocols. To do so, this position requires substantial coordination with program staff to acquire a working knowledge of agency programs in order to know what is worthy of public education, and how to best expedite information to the targeted audience. This position demands attention to detail, and the ability to multi-task and perform under tight deadlines. This position is expected to anticipate, plan and initiate recommendations without being told to do so.

This position will script talking points, presentations, coordinate public appearances by the agency Division Administrators, and the agency Director and General Counsel. This position will also coordinate and track public records requests and responses. This position is responsible for the maintenance of the agency website, coordination of public records requests, handles public meeting notices and provision of support to the Government Accountability Board.

DUTIES AND REPONSIBLITIES

35%

A. Develop and coordinate the agency's media communications and information protocol, and expedite and promote the agency mission and story.

1. Develop the media outreach and information protocol, designed to promote the agency mission and story to local officials, legislators, general public and media.

2. Coordinate and collaborate with program staff so as to draft and edit a variety of types of correspondence, materials and documents as required.

3. Expedite and advance mission with targeted audiences through a variety of outreach, educational and informational methods, mediums, approaches, techniques and strategies (i.e. Web pages, brochures, certificates, posters and newsletters), to advance the agency's mission and story.

4. Research, disseminate and respond to information requests from the public, elected and elections officials, and media.

AMERICAN OVERSIGHT

5. Prepare news releases, feature stories, op-eds, background briefing material, public service announcements, media kits and other information for effectively conveying the agency's mission and story to targeted audiences.

6. Schedule press conferences and media events, including preparing media advisories, press kits and news releases, as well as coordinate staff's responses to media inquiries.

7. Prepare talking points, speeches, testimony and suggested responses to a variety of inquiries for the Elections Division Administrator, Ethics Division Administrator and the Director and General Counsel.

8. Respond to media requests, and to persuade the media to publish or broadcast stories developed by the Elections and Ethics Divisions.

25%

B. Provide support for internal business procedures and practices

1. Create communications materials, such as a sample media kit, for elections officials.

2. Research agency programs, projects and activities to create an events calendar, press releases, advertised media events, controlled correspondence, special interest items for the agency's Internet site and other communications to the media or public.

3. Work cooperatively and effectively with Elections and Ethics Division staff to plan and implement communication strategies, including citizen involvement, public meetings and media events.

4. Identify general and specific communications problems, challenges and opportunities, and recommend education priorities and objectives.

5. Develop and implement procedures to be followed in issuing news releases and other materials to the news media. Assess the degree of risk in the communication and work within agency management to minimize the risk.

6. Coordinate with Elections Division Administrator, Ethics Division Administrator, and the Director and General Counsel on all media strategies and activities.

7. Research, create, edit and publish manuals, brochures, forms, memos, informational releases, etc., as part of educational programs, informational campaigns, and ongoing communications plans.

8. Provide training and education presentations to the public, voter advocacy groups, local officials and organizations.

9. Prepare biennial report of agency activities as required by statute.

20%

C. Manage and Direct Elections Division Media Outreach Campaigns

1. Coordinate development of media outreach programs including voter identification, election preparedness, military and overseas voter outreach and promotion of voting accessibility.

AMERICAN OVERSIGHT

2. Work with Elections Division staff and outside contractors to develop broadcast and print media subject matter.

3. Determine media placement of Elections Division media messaging to maximize Elections Division goals for targeted audiences.

4. Monitor and evaluate effectiveness of media initiatives.

10%
D. Maintain agency website as an electronic public education and information tool

1. Manage the process for overhauling agency website.

2. Maintain and update agency website and portal presences for compliance with the Agency's Web policies, procedures and guidelines, in coordination with managers and staff.

3. Serve as agency liaison in problem resolution for authors of web-based documents.

4. Create and edit pages for agency website, in coordination with managers and staff.

5%
E. Coordinate Agency Public Records Requests

1. Serve as the agency contact for public records requests.

2. Review public records requests and refer to appropriate Division Administrator.

3. Monitor compliance with public records requests with agency Division Administrators and the Director and General Counsel, to ensure agency compliance.

4. Maintain agency's log of public records requests that tracks date of request, Division Administrator referred to, and date of response.

5. Prepare public meeting notices and other routine public notices.

5%
F. Government Accountability Board Support and Related Duties

1. Manage the communication system set-up for Government Accountability Board meetings.

2. Scribe formal proceedings of the Government Accountability Board.

3. Communicate Government Accountability Board actions, decisions and rulings to the public and media.

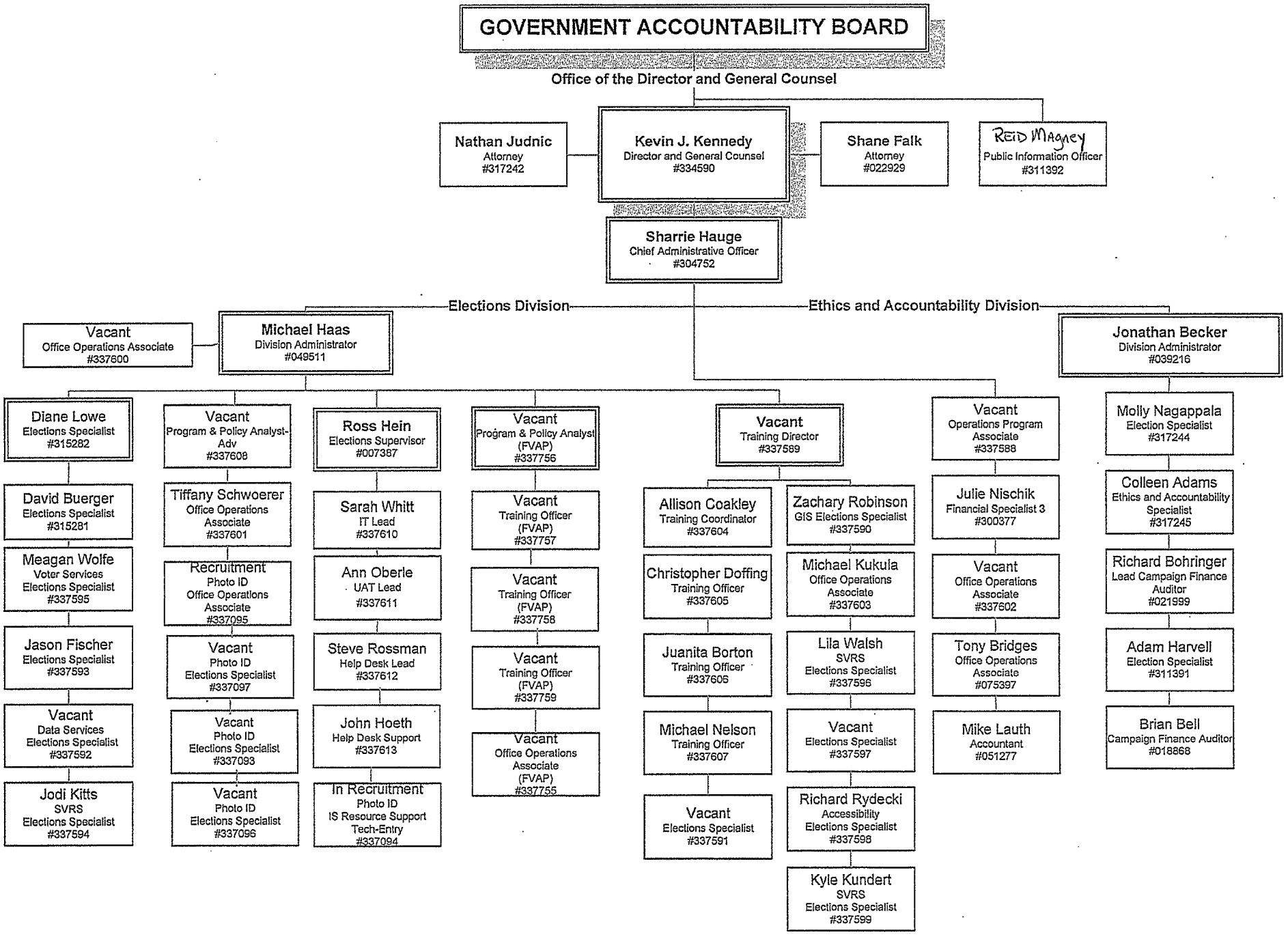
4. Perform special projects and other duties as assigned.

AMERICAN OVERSIGHT

KNOWLEDGE AND SKILLS REQUIRED

1. Four year degree or equivalent in communication arts, journalism, public policy or related field.
2. Knowledge of program planning, development and implementation.
3. Experience as a print or electronic reporter, public information officer, media specialist or similar work.
4. Experience in preparing and disseminating information and documents for public distribution including news releases, agency reports and similar documents; familiarity with presenting government information or public policy issues required.
5. Experience with writing for electronic media, particularly websites and representing information on the web.
6. Experience in coordinating public events involving the media.
7. Strong verbal and written communication skills including writing for diverse audiences including the public.
8. Experience editing the works of others including peers and writing for the attribution to others.
9. Experience in dealing with the agency staff, the media and elected and government officials.
10. Strong interpersonal skills including the ability to work effectively with staff, elected and appointed officials, and in both leadership and team member roles.
11. Ensure supplies and materials are available for Government Accountability Board meetings.
12. Extensive knowledge of various methods and techniques for delivering effective public education and outreach informational programs.
13. Ability to establish and maintain effective working relationships with all media mediums, agency staff, municipal and county clerks, public officials including legislators and the public.
14. Ability to plan effective public relations programs and measures the results.
15. Ability to handle multiple tasks, meet deadlines and perform under pressure.
16. Effective hands-on knowledge and use of advance levels of computer programs and various computer technologies (online, webpage development web-based, internet).

AMERICAN OVERSIGHT



AMERICAN OVERSIGHT

POSITION DESCRIPTION

OSER-DMRS-10 (Rev. 08-2013)
State of Wisconsin
Office of State Employment Relations

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
311392	14-328	511

4. NAME OF EMPLOYEE
Reid T. Magney

5. DEPARTMENT, UNIT, WORK ADDRESS
Government Accountability Board
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Communications Specialist - Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION
Public Information Officer

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Kevin J. Kennedy, Director and General Counsel

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM (OSER-DCLR-84).

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
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Signature of first-line supervisor _____ Date 7/10/14

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(Please initial and date attachments.)

Signature of employee Reid Magney Date 7/11/14

18. Signature of Human Resources Manager Kay Wm. Kraus Date 07.09.14

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☑ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD
Communications Specialist – Senior

Agency Working Title: Public Information Officer
(Position #311392)

POSITION SUMMARY

Under the general supervision of the agency Director and General Counsel, Wisconsin's Chief Election Official, this position is the primary staff for developing the agency's media relations and implementation strategies. This position promotes and advances the agency's mission and story by informing the media, public, agency elections partners, elected officials and constituents about a variety of agency program and policy initiatives, issues and concerns. The position is an active participant on the team that oversees the agency's public communication programs.

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DUTIES AND REPONSIBLITIES

35%

A. Develop and coordinate the agency's media communications and information protocol, and expedite and promote the agency mission and story.

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2. Coordinate and collaborate with program staff so as to draft and edit a variety of types of correspondence, materials and documents as required.

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4. Research, disseminate and respond to information requests from the public, elected and elections officials, and media.

AMERICAN OVERSIGHT

5. Prepare news releases, feature stories, op-eds, background briefing material, public service announcements, media kits and other information for effectively conveying the agency's mission and story to targeted audiences.

6. Schedule press conferences and media events, including preparing media advisories, press kits and news releases, as well as coordinate staff's responses to media inquiries.

7. Prepare talking points, speeches, testimony and suggested responses to a variety of inquiries for the Elections Division Administrator, Ethics Division Administrator and the Director and General Counsel.

8. Respond to media requests, and to persuade the media to publish or broadcast stories developed by the Elections and Ethics Divisions.

25%

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7. Research, create, edit and publish manuals, brochures, forms, memos, informational releases, etc., as part of educational programs, informational campaigns, and ongoing communications plans.

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9. Prepare biennial report of agency activities as required by statute.

20%

C. Manage and Direct Elections Division Media Outreach Campaigns

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AMERICAN OVERSIGHT

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3. Determine media placement of Elections Division media messaging to maximize Elections Division goals for targeted audiences.

4. Monitor and evaluate effectiveness of media initiatives.

10%
D. Maintain agency website as an electronic public education and information tool

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2. Maintain and update agency website and portal presences for compliance with the Agency's Web policies, procedures and guidelines, in coordination with managers and staff.

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5%
E. Coordinate Agency Public Records Requests

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3. Monitor compliance with public records requests with agency Division Administrators and the Director and General Counsel, to ensure agency compliance.

4. Maintain agency's log of public records requests that tracks date of request, Division Administrator referred to, and date of response.

5. Prepare public meeting notices and other routine public notices.

5%
F. Government Accountability Board Support and Related Duties

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3. Communicate Government Accountability Board actions, decisions and rulings to the public and media.

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AMERICAN OVERSIGHT

KNOWLEDGE AND SKILLS REQUIRED

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3. Experience as a print or electronic reporter, public information officer, media specialist or similar work.
4. Experience in preparing and disseminating information and documents for public distribution including news releases, agency reports and similar documents; familiarity with presenting government information or public policy issues required.
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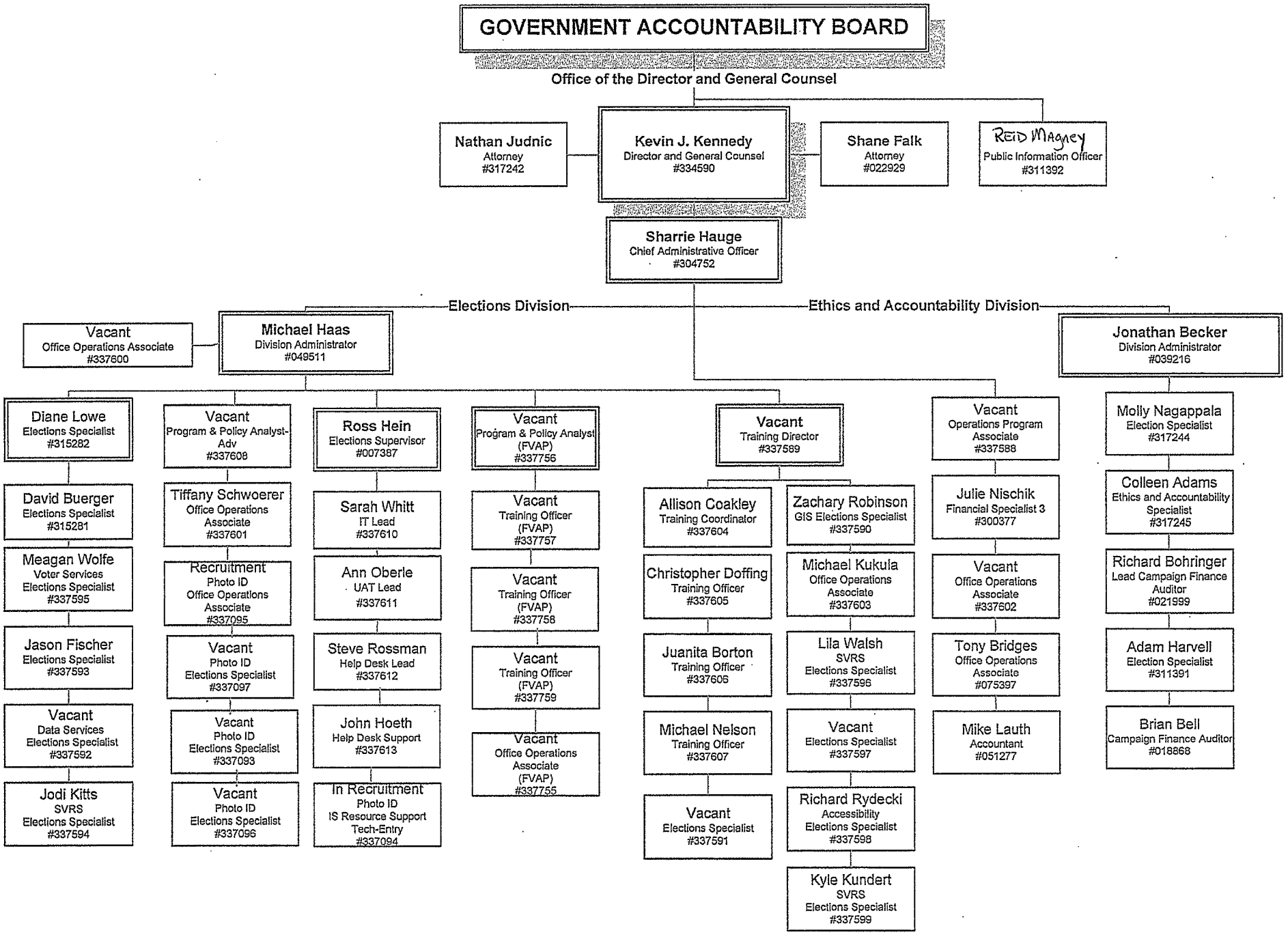
AMERICAN OVERSIGHT



AMERICAN OVERSIGHT

POSITION DESCRIPTION

OSER-DCLR-10 (Rev. 08-2010)
State of Wisconsin
Office of State Employment Relations

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
337611	12-401	511

4. NAME OF EMPLOYEE
Ann F. Oberle

5. DEPARTMENT, UNIT, WORK ADDRESS
Government Accountability Board
212 East Washington Avenue - 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Business Automation Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
New Position

9. AGENCY WORKING TITLE OF POSITION
SVRS UAT Test Manager

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Ross Hein, Campaign Finance and Elections Supervisor

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM (OSER-DCLR-84).

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TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
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a. The supervision, direction, and review given to the work of this position is [ ] close [ ] limited [X] general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Ross Hein Date 5/23/13

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee Ann F. Oberle Date 5/20/2013

18. Signature of Personnel Manager Jay Wm Krems Date 04.15.13

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ PD FILE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

GOVERNMENT ACCOUNTABILY BOARD
Elections Administration Division

IS Business Automation Senior Position
(SVRS UAT Test Manager: AO)
Position #337611

Position Summary

The Wisconsin Government Accountability Board and its Elections Division is charged by statute to administer and enforce Wisconsin Election Administration laws that include the following eleven new Acts passed by during the Legislature 2011-2012 session and signed into law by the Governor:

1. 2011 Wisconsin Act 23: Changes to Election Laws (Voter Photo ID)
2. 2011 Wisconsin Act 39: Redistricting
3. 2011 Wisconsin Act 43: Legislative Redistricting
4. 2011 Wisconsin Act 44: Congressional Redistricting
5. 2011 Wisconsin Act 45: The Presidential Preference Primary (and certain other election occurrences).
6. 2011 Wisconsin Act 62: Creation of the office of County Comptroller (Milwaukee County)
7. 2011 Wisconsin Act 75: Dates of the September Primary, Absentee Voting, Electronic Communication System, Polling Places, Special Elections, Duplicate Identification Cards (and other Election Occurrence; MOVE Act Changes).
8. 2011 Wisconsin Act 115: County and Municipal Canvassing Procedures, Delivery of Election Materials, Posting of Provisional Ballot Information, Town Meeting and Town Officer Term Date Changes and Election Deadlines.
9. 2011 Wisconsin Act 130: First Election Following Incorporation of a City or Village.
10. 2011 Wisconsin Act 227: Absentee Ballots and Voting In-Person, and by Absentee Ballot in the Same Election.
11. 2011 Wisconsin Act 240: Elimination of Requirement to Appoint Special Deputy Relating to Voter Registration at High Schools and Certain Tribal Schools.

A basic and core requirement of the Board through its Elections Division is to ensure ongoing, quality education, training, outreach technical assistance and customer service to 1,851 municipal clerks, 72 county clerks and thousands of Local Election Officials (poll workers) that conduct elections as well as to the State's 3.3 million active voters, to ensure adherence to, and compliance with the new above-referenced Wisconsin Acts and Chapters 5-12 of Wisconsin State Statutes.

Another basic and core requirement of the Board via its Elections Division is to provide current and accurate information to the State's 4.3 million eligible voters about the State's electoral process and all new revisions, changes and amendments to election administration procedures. This function includes collecting, validating, synthesizing, and reporting election and voter participation data received from nearly 2,000 jurisdictions that manage almost 3,000 polling places that submit election and voter participation data for over 3,600 reporting units.

This position serves as the Elections Division's UAT Lead and functions as part of the elections administration team that provides education, training, technical assistance, advice and consultation in the administration of all types of elections to the Board's customers and partners that include but not limited to county, municipal, and school district clerks and administrators, as well voter customers and members of the general public.

AMERICAN OVERSIGHT

This position performs advanced professional IS work related to the evaluation and recommendation of enhancements to the Statewide Voter Registration System (SVRS) for new technologies to meet the needs of the Board. The Board has a multi-year Election Administration Plan that includes new reforms and concepts in Election Administration. Implementation of these new initiatives will involve the use of technology.

In addition, the State Legislature's 2011-2012 Election Administration Wisconsin Acts require a technological solution for full implementation and compliance that will affect the functions of the Elections Division, and functionalities of SVRS. In conjunction with the Elections Division's IT Development Team, this position tests new technological functionalities and provides analyses and evaluation results to agency management.

This position also performs advanced professional IS work related to the management and support of the hardware and systems and applications software that make-up the SVRS. SVRS is an enterprise class multi-tiered application, interfacing and integrating with multiple state agency systems and used by 1,923 local units of government, counties and municipalities.

This position performs work related to the installation, maintenance and problem resolution of SVRS, including computer platforms, systems software, operating systems, and applications software as it relates to User Acceptance Testing (UAT). Supporting the SVRS application includes performing technical services duties across multiple platforms.

55%

A. Manage the Statewide Voter Registration System User Acceptance Testing (UAT)

1. Manage quality assurance of technical and infrastructure activities, work products and deliverables. Document system incident reports or application issues.

2. Create, manage and modify test plans, scripts and data for UAT and Performance Testing. Manage the day-to-day activities of UAT support staff.

3. Provide technical consulting and support of SVRS and other hardware, applications support software and systems software at an agency level in UAT.

4. Provide technical input for applications systems and supporting systems software across multiple platforms and complex multi-tiered application and technology leads.

5. Create, manage and modify test tools such as manual and results matrix for UAT and Performance.

6. Coordinate installation and maintenance of releases of SVRS software for UAT.

7. Participate in decisions to implement new codes and configurations.

8. Participate in trouble-shooting activities (application, interfaces, infrastructure end-user hardware.

9. Measure, analyze and report test results for UAT and Performance testing. Validate technical requirements for the SVRS.

10. Research and resolve complex systems software problem

AMERICAN OVERSIGHT

20%

B. Consult, Collaborate and Coordinate closely with the Elections Division's IT Development Team.

1. Involve the Elections Division's IT Development Team in the conceptualization, design and development stage of UAT Test Plans to the Test monitoring and feedback phase, to full deployment (production) and implementation of the upgrade or new functionality.

2. Recommend Elections Specialists to participate in, and implement UAT plans.

3. In conjunction with Elections Specialist colleagues, identify Local Election Officials to participate in UAT plans.

4. Meet regularly with the Elections Division's IT Development Team to ensure UAT plans are preceding in accordance with the objectives of UAT plans and expectations.

5. Brief management on state and status of readiness for launching new functionalities in SVRS.

10%

C. Lead Complex Special Projects and Assignments Regarding the Statewide Voter Registration System

1. Conduct research and analysis on new legislative initiatives as it pertains to the Statewide Voter Registration System and Election Administration technology

2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Draft fiscal analysis and legislative status reports. Prepare decision item narratives and supporting documentation for agency's management.

4. Develop background information, testimony and other materials for the management staff to respond to policy issues, identifying impact and consequences of proposed legislation.

5. Recommend remedial legislation to be introduced by the Board.

6. Recommend new or revised standards and guidelines.

7. Negotiate timelines, products and other project concerns with management positions.

8. Oversee completion of tasks and provide status and completion reports to management.

9. Recommend and administer policies and standards to ensure that SVRS users are aware of and understand SVRS policies and procedures.

AMERICAN OVERSIGHT

10. Coordinate teams to complete projects especially for delivery of technical IS services to multiple customers.

11. Evaluate and recommend new technology products for the Elections Division's use.

12. Recommend revisions to technical standards and guidelines.

5%

D. Manage the study, evaluation, and recommend new technological advances as it relates to the Statewide Voter Registration System and Election Administration Technologies.

6. Establish goals and objectives, and plan and organize appropriate teams and manage the evaluation of information technology advancements.

7. Plan, organize and prepare statistical and other informational reports.

8. Identify program changes and updates in the agency's information technology system to meet the Board's statutory responsibilities.

9. Participate in the evaluation and recommendations for enhancements to the Elections Division's information technology system.

10. Identify SVRS technical support efforts needed for implementation of new technologies, including planning, product implementation and rollout across the impacted State agencies, counties, and municipalities.

5%

E. Participate in Implementation of the agency's Election Administration Plan.

In carrying out assigned SVRS UAT responsibilities:

1. Assist with carrying-out reforms embedded in the agency's Election Administration Plan.

2. Develop a matrix for capturing, detailing and documenting Elections Specialists assistance to Local Election Officials as it relates to the implementation of the agency's Election Administration Plan.

3. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public as necessary.

4. Cross-Training: Develop and maintain a high level working knowledge of the agency's core training requirements to acquire a proficiency and competency in these business processes for the purpose of conducting training in SVRS functionalities, including SVRS applications.

5. Carryout special projects and assignments as directed by agency management.

5%

F. Serve as liaison with state agencies involved in Interface functionality with the Statewide Voter Registration System

1. Develop contacts with appropriate staff in the Department of Administration (DOA), Division of Enterprise Technology (DET), Department of Transportation (DOT),

AMERICAN OVERSIGHT

Department of Health Services (DHS) and Department of Corrections (DOC), regarding the Interface functionality of the Statewide Voter Registration System (SVRS) and the Federal Help America Voter Act of 2002 requirements.

2. Work with IS staff and other state agencies to ensure consistency across architectures.

3. Serve as agency contact for inter-agency agreements with DOA/DET, DOT, DHS and DOC regarding the Interface functionality. Periodically review agreements and recommend updates as needed.

4. Evaluate technology changes regarding SVRS Interfaces and the technological relationship with other affected state agency systems.

5. Draft responses to questions from the Governor's Office, the Legislature, other agencies and the public involving voter registration and program implementation.

Required Knowledge, Skills, and Abilities

1. A two-year Associate IT or related Technical degree, or a four-year degree or equivalent training and experience preferred.

2. Proficient in Microsoft Project, Word, Excel, Power Point, and Access.

3. In-depth knowledge of all election laws, administrative rules and Board policies, methods and procedures as they relate to election administration, primarily regarding voter registration.

4. Demonstrated work experience in the Elections field required.

5. Demonstrated work experience with complex, multi-tiered Enterprise applications.

6. Demonstrated work experience with IS system testing techniques such as Test Driven Development (TDD) and/or Team Foundation Build Automation.

7. In-depth knowledge of client-server and web-based applications and processes.

8. Experience documenting system incident reports or application issues using Microsoft Team Foundation Build Automation, Visual Studio Test Edition or other industry standard tools.

9. Ability to plan, organize, and prioritize workloads.

10. Ability to demonstrate initiative and independence in managing tasks.

11. Ability to manage and direct the work of other professional, technical, and clerical staff.

12. Strong analytical and strategic planning skills.

13. Excellent communication skills; ability to speak and write effectively.

AMERICAN OVERSIGHT

14. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, legislators, other state agency officials, and the general public.

15. Ability to demonstrate good professional demeanor and a consistently pleasant personality.

16. Must be able to lift up to 20 pounds without assistance.

17. Must be able to work effective in a team setting, with other team members.

18. Must be able to travel as required.

19. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

20. The selected candidate must not have given a contribution to a partisan campaign or candidate twelve months prior to the appointment.

21. The selected Candidate must pass a security background check.

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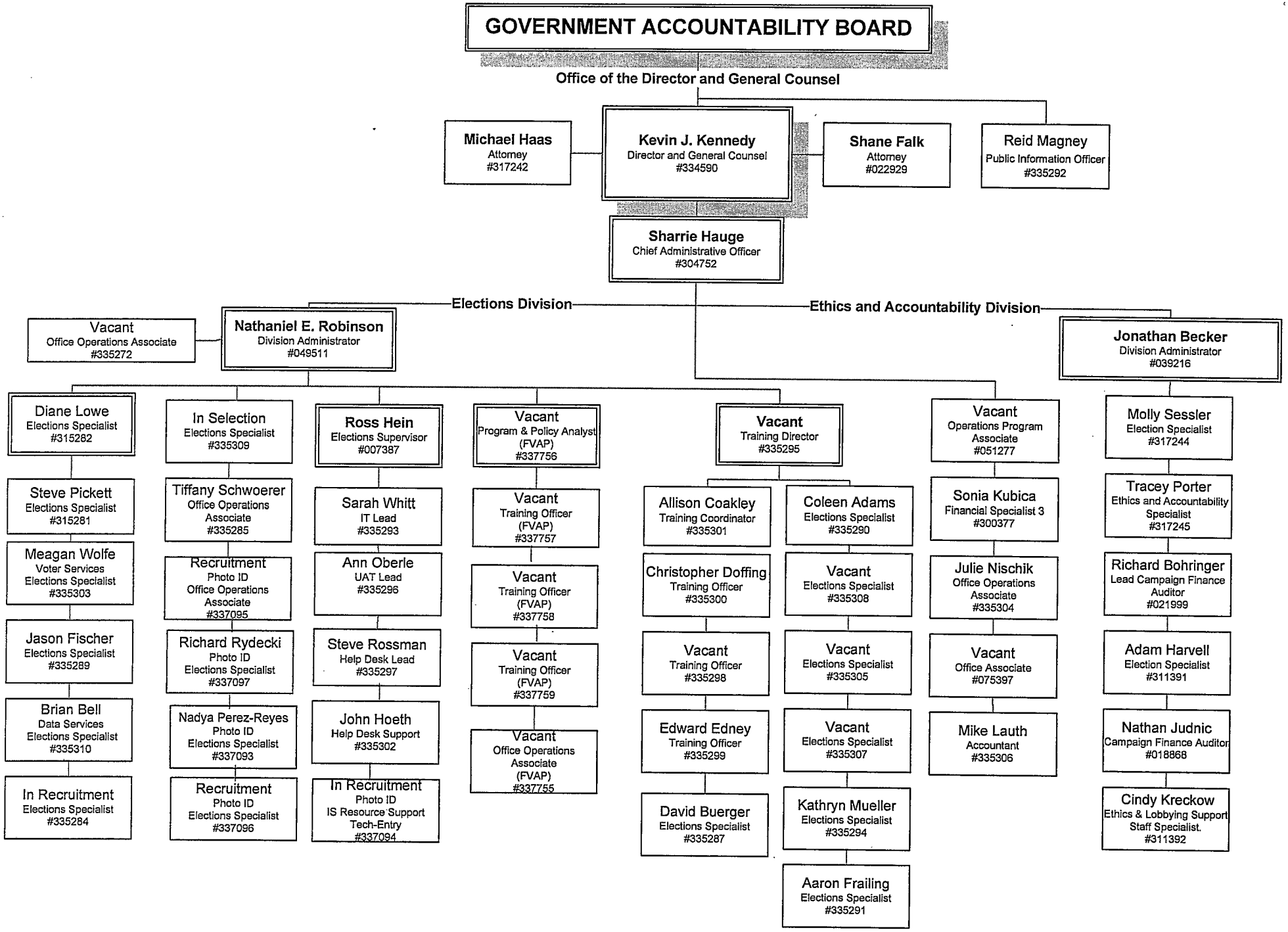

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POSITION DESCRIPTION

OSER-DCLR-10 (Rev. 08-2010)
State of Wisconsin
Office of State Employment Relations

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
337611	12-401	511

4. NAME OF EMPLOYEE
Ann F. Oberle

5. DEPARTMENT, UNIT, WORK ADDRESS
Government Accountability Board
212 East Washington Avenue - 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Business Automation Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
New Position

9. AGENCY WORKING TITLE OF POSITION
SVRS UAT Test Manager

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Ross Hein, Campaign Finance and Elections Supervisor

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM (OSER-DCLR-84).

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
Please see attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	Please see attached.

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is [ ] close [ ] limited [X] general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Ross Hein Date 5/23/13

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee Ann F. Oberle Date 5/20/2013

18. Signature of Personnel Manager Tony Wm Evans Date 04.15.13

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ PD FILE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

GOVERNMENT ACCOUNTABILY BOARD
Elections Administration Division

IS Business Automation Senior Position
(SVRS UAT Test Manager: AO)
Position #337611

Position Summary

The Wisconsin Government Accountability Board and its Elections Division is charged by statute to administer and enforce Wisconsin Election Administration laws that include the following eleven new Acts passed by during the Legislature 2011-2012 session and signed into law by the Governor:

1. 2011 Wisconsin Act 23: Changes to Election Laws (Voter Photo ID)
2. 2011 Wisconsin Act 39: Redistricting
3. 2011 Wisconsin Act 43: Legislative Redistricting
4. 2011 Wisconsin Act 44: Congressional Redistricting
5. 2011 Wisconsin Act 45: The Presidential Preference Primary (and certain other election occurrences).
6. 2011 Wisconsin Act 62: Creation of the office of County Comptroller (Milwaukee County)
7. 2011 Wisconsin Act 75: Dates of the September Primary, Absentee Voting, Electronic Communication System, Polling Places, Special Elections, Duplicate Identification Cards (and other Election Occurrence; MOVE Act Changes).
8. 2011 Wisconsin Act 115: County and Municipal Canvassing Procedures, Delivery of Election Materials, Posting of Provisional Ballot Information, Town Meeting and Town Officer Term Date Changes and Election Deadlines.
9. 2011 Wisconsin Act 130: First Election Following Incorporation of a City or Village.
10. 2011 Wisconsin Act 227: Absentee Ballots and Voting In-Person, and by Absentee Ballot in the Same Election.
11. 2011 Wisconsin Act 240: Elimination of Requirement to Appoint Special Deputy Relating to Voter Registration at High Schools and Certain Tribal Schools.

A basic and core requirement of the Board through its Elections Division is to ensure ongoing, quality education, training, outreach technical assistance and customer service to 1,851 municipal clerks, 72 county clerks and thousands of Local Election Officials (poll workers) that conduct elections as well as to the State's 3.3 million active voters, to ensure adherence to, and compliance with the new above-referenced Wisconsin Acts and Chapters 5-12 of Wisconsin State Statutes.

Another basic and core requirement of the Board via its Elections Division is to provide current and accurate information to the State's 4.3 million eligible voters about the State's electoral process and all new revisions, changes and amendments to election administration procedures. This function includes collecting, validating, synthesizing, and reporting election and voter participation data received from nearly 2,000 jurisdictions that manage almost 3,000 polling places that submit election and voter participation data for over 3,600 reporting units.

This position serves as the Elections Division's UAT Lead and functions as part of the elections administration team that provides education, training, technical assistance, advice and consultation in the administration of all types of elections to the Board's customers and partners that include but not limited to county, municipal, and school district clerks and administrators, as well voter customers and members of the general public.

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This position performs advanced professional IS work related to the evaluation and recommendation of enhancements to the Statewide Voter Registration System (SVRS) for new technologies to meet the needs of the Board. The Board has a multi-year Election Administration Plan that includes new reforms and concepts in Election Administration. Implementation of these new initiatives will involve the use of technology.

In addition, the State Legislature's 2011-2012 Election Administration Wisconsin Acts require a technological solution for full implementation and compliance that will affect the functions of the Elections Division, and functionalities of SVRS. In conjunction with the Elections Division's IT Development Team, this position tests new technological functionalities and provides analyses and evaluation results to agency management.

This position also performs advanced professional IS work related to the management and support of the hardware and systems and applications software that make-up the SVRS. SVRS is an enterprise class multi-tiered application, interfacing and integrating with multiple state agency systems and used by 1,923 local units of government, counties and municipalities.

This position performs work related to the installation, maintenance and problem resolution of SVRS, including computer platforms, systems software, operating systems, and applications software as it relates to User Acceptance Testing (UAT). Supporting the SVRS application includes performing technical services duties across multiple platforms.

55%

A. Manage the Statewide Voter Registration System User Acceptance Testing (UAT)

1. Manage quality assurance of technical and infrastructure activities, work products and deliverables. Document system incident reports or application issues.

2. Create, manage and modify test plans, scripts and data for UAT and Performance Testing. Manage the day-to-day activities of UAT support staff.

3. Provide technical consulting and support of SVRS and other hardware, applications support software and systems software at an agency level in UAT.

4. Provide technical input for applications systems and supporting systems software across multiple platforms and complex multi-tiered application and technology leads.

5. Create, manage and modify test tools such as manual and results matrix for UAT and Performance.

6. Coordinate installation and maintenance of releases of SVRS software for UAT.

7. Participate in decisions to implement new codes and configurations.

8. Participate in trouble-shooting activities (application, interfaces, infrastructure end-user hardware.

9. Measure, analyze and report test results for UAT and Performance testing. Validate technical requirements for the SVRS.

10. Research and resolve complex systems software problem

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20%

B. Consult, Collaborate and Coordinate closely with the Elections Division's IT Development Team.

1. Involve the Elections Division's IT Development Team in the conceptualization, design and development stage of UAT Test Plans to the Test monitoring and feedback phase, to full deployment (production) and implementation of the upgrade or new functionality.

2. Recommend Elections Specialists to participate in, and implement UAT plans.

3. In conjunction with Elections Specialist colleagues, identify Local Election Officials to participate in UAT plans.

4. Meet regularly with the Elections Division's IT Development Team to ensure UAT plans are preceding in accordance with the objectives of UAT plans and expectations.

5. Brief management on state and status of readiness for launching new functionalities in SVRS.

10%

C. Lead Complex Special Projects and Assignments Regarding the Statewide Voter Registration System

1. Conduct research and analysis on new legislative initiatives as it pertains to the Statewide Voter Registration System and Election Administration technology

2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Draft fiscal analysis and legislative status reports. Prepare decision item narratives and supporting documentation for agency's management.

4. Develop background information, testimony and other materials for the management staff to respond to policy issues, identifying impact and consequences of proposed legislation.

5. Recommend remedial legislation to be introduced by the Board.

6. Recommend new or revised standards and guidelines.

7. Negotiate timelines, products and other project concerns with management positions.

8. Oversee completion of tasks and provide status and completion reports to management.

9. Recommend and administer policies and standards to ensure that SVRS users are aware of and understand SVRS policies and procedures.

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10. Coordinate teams to complete projects especially for delivery of technical IS services to multiple customers.

11. Evaluate and recommend new technology products for the Elections Division's use.

12. Recommend revisions to technical standards and guidelines.

5%

D. Manage the study, evaluation, and recommend new technological advances as it relates to the Statewide Voter Registration System and Election Administration Technologies.

6. Establish goals and objectives, and plan and organize appropriate teams and manage the evaluation of information technology advancements.

7. Plan, organize and prepare statistical and other informational reports.

8. Identify program changes and updates in the agency's information technology system to meet the Board's statutory responsibilities.

9. Participate in the evaluation and recommendations for enhancements to the Elections Division's information technology system.

10. Identify SVRS technical support efforts needed for implementation of new technologies, including planning, product implementation and rollout across the impacted State agencies, counties, and municipalities.

5%

E. Participate in Implementation of the agency's Election Administration Plan.

In carrying out assigned SVRS UAT responsibilities:

1. Assist with carrying-out reforms embedded in the agency's Election Administration Plan.

2. Develop a matrix for capturing, detailing and documenting Elections Specialists assistance to Local Election Officials as it relates to the implementation of the agency's Election Administration Plan.

3. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public as necessary.

4. Cross-Training: Develop and maintain a high level working knowledge of the agency's core training requirements to acquire a proficiency and competency in these business processes for the purpose of conducting training in SVRS functionalities, including SVRS applications.

5. Carryout special projects and assignments as directed by agency management.

5%

F. Serve as liaison with state agencies involved in Interface functionality with the Statewide Voter Registration System

1. Develop contacts with appropriate staff in the Department of Administration (DOA), Division of Enterprise Technology (DET), Department of Transportation (DOT),

AMERICAN OVERSIGHT

Department of Health Services (DHS) and Department of Corrections (DOC), regarding the Interface functionality of the Statewide Voter Registration System (SVRS) and the Federal Help America Voter Act of 2002 requirements.

2. Work with IS staff and other state agencies to ensure consistency across architectures.

3. Serve as agency contact for inter-agency agreements with DOA/DET, DOT, DHS and DOC regarding the Interface functionality. Periodically review agreements and recommend updates as needed.

4. Evaluate technology changes regarding SVRS Interfaces and the technological relationship with other affected state agency systems.

5. Draft responses to questions from the Governor's Office, the Legislature, other agencies and the public involving voter registration and program implementation.

Required Knowledge, Skills, and Abilities

1. A two-year Associate IT or related Technical degree, or a four-year degree or equivalent training and experience preferred.

2. Proficient in Microsoft Project, Word, Excel, Power Point, and Access.

3. In-depth knowledge of all election laws, administrative rules and Board policies, methods and procedures as they relate to election administration, primarily regarding voter registration.

4. Demonstrated work experience in the Elections field required.

5. Demonstrated work experience with complex, multi-tiered Enterprise applications.

6. Demonstrated work experience with IS system testing techniques such as Test Driven Development (TDD) and/or Team Foundation Build Automation.

7. In-depth knowledge of client-server and web-based applications and processes.

8. Experience documenting system incident reports or application issues using Microsoft Team Foundation Build Automation, Visual Studio Test Edition or other industry standard tools.

9. Ability to plan, organize, and prioritize workloads.

10. Ability to demonstrate initiative and independence in managing tasks.

11. Ability to manage and direct the work of other professional, technical, and clerical staff.

12. Strong analytical and strategic planning skills.

13. Excellent communication skills; ability to speak and write effectively.

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14. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, legislators, other state agency officials, and the general public.

15. Ability to demonstrate good professional demeanor and a consistently pleasant personality.

16. Must be able to lift up to 20 pounds without assistance.

17. Must be able to work effective in a team setting, with other team members.

18. Must be able to travel as required.

19. Must possess a valid Wisconsin driver license that meets the State's Risk Management standards.

20. The selected candidate must not have given a contribution to a partisan campaign or candidate twelve months prior to the appointment.

21. The selected Candidate must pass a security background check.

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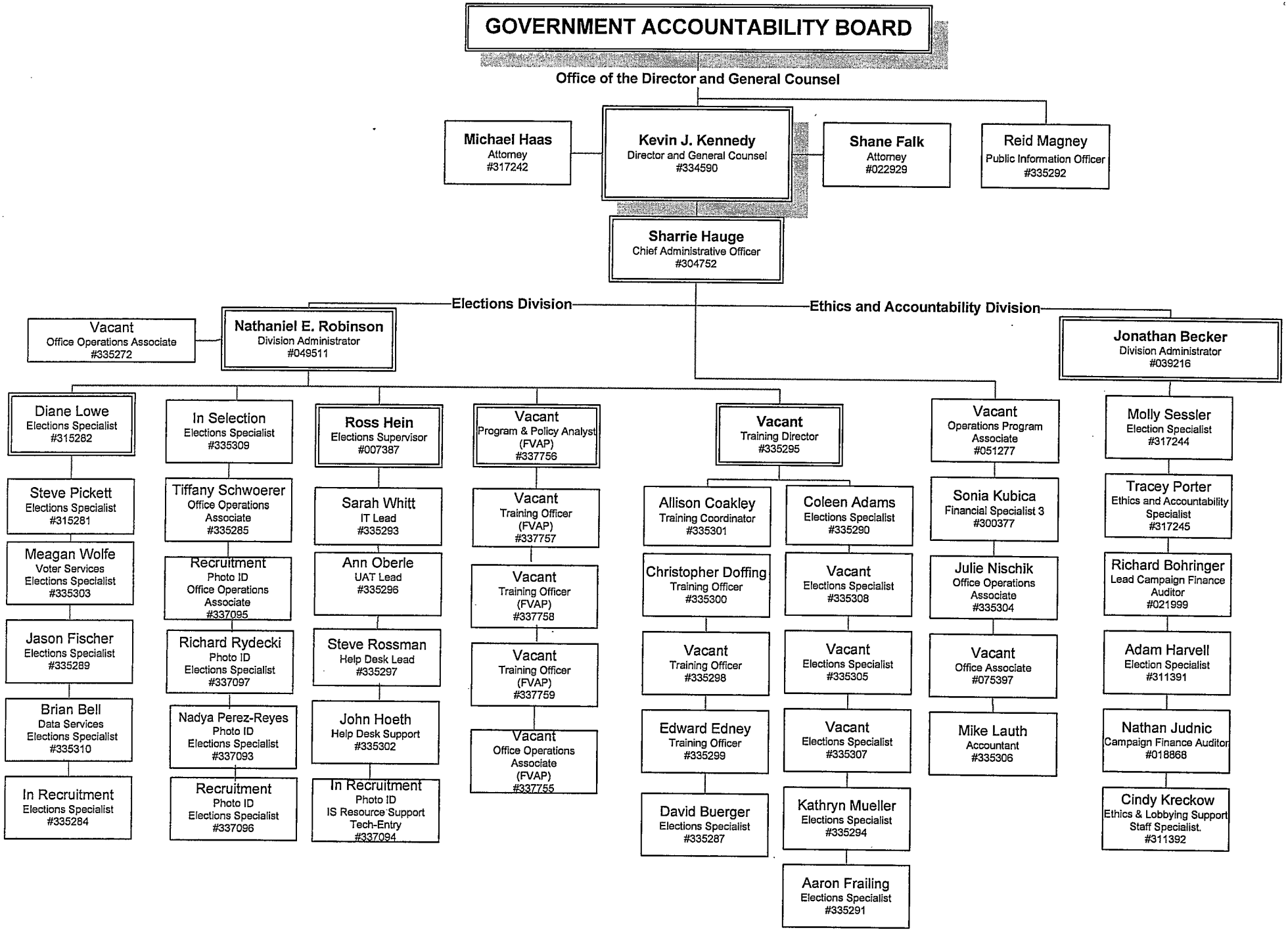

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POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339512	18-006	51000

4. NAME OF EMPLOYEE
Steve Rossman

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Technical Services Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION
WEC Service Desk Lead

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Sharrie Hauge, Financial Program Supv

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
Jan 2016

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

Please see attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	Please see attached.

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Sharrie Hauge Date 8/10/17

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 8/10/17

18. Signature of Human Resources Manager [signature] Date

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

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Wisconsin Elections Commission
IS Technical Services Specialist
WEC Service Desk Lead

(Position #339512)

POSITION SUMMARY

The Wisconsin Elections Commission (WEC) Service Desk provides customer service to many units of government, including 1,851 municipal clerks and 72 county clerks throughout the State of Wisconsin, in the areas of application user support and election business process support. The WEC Service Desk supports over 2,000 clerks and state staff users in the WisVote Election Management System which contains over 3.7 million voter registration records, election management processes, election reporting and other election administration information.

This position guides the day-to-day work of the staff for the WEC Technical Service Desk for the WisVote system including applications such as WisVote, MyVote, Election Data Collection, Canvass, Badger Voters, and Election Training applications. This position provides leadership, customer service expertise and advanced technical expertise across multiple platforms of WEC systems, the WisVote domain and the state Enterprise network.

This position develops documents and implements technical standards, processes and policies relevant to the ongoing operation of the WEC. The incumbent is the agency authority in the Information Technology Infrastructure Library (ITIL) service management; incident, problem and change management; ITIL framework; problem diagnosis and resolution and process and procedure development.

This position is a member of the agency IS Functional Team and provides strategic advice to the agency IT Director and agency administration. This position serves as the primary liaison to the Division of Enterprise Technology on behalf of the WEC technical systems and staff.

Responsibilities include participation in the development of short and long range information technology initiatives and objectives consistent with agency and divisional guidelines, tactical and strategic business planning and management of technical services (e.g., network, security, service desk, etc.) in support of the programs and business plans of the agency. Further, the position is responsible for developing structure and processes to apply new technologies and/or methodologies effectively within the organization ensuring customer focused delivery of enterprise services.

Specific to technical support, work includes oversight and ongoing evaluation of agency workstation software, server requirements and configurations, network and firewall architecture requirements and data communication structural needs.

Specific to applications support, the position leads the support and change management of multiple platform projects that include business needs assessment and problem identification, evaluation of resources and ensuring effective customer communication and other related functions.

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DUTIES AND RESPONSIBILITIES

35%

A. General management of day-to-day operations of WEC Elections & Technical Service Desk requirements.

1. Monitor the Service Desk staff to ensure adequate service for incoming customer calls. Communicate with staff and other lead workers to ensure that maximum staff resources are providing phone coverage during peak periods.

2. Ensure that incident and change management policies and procedures are followed by Service Desk staff. Ensure that any Service Desk specific policies and procedures are followed. Where chronic cases of non-adherence are apparent, inform the supervisor.

3. Act as a resource for Service Desk staff on a wide variety of technical issues such as problem diagnosis, escalation procedures and database processes.

4. Provide multi-platform technical support to all WEC program application areas including WisVote; MyVote; SVRS Domain; WEDC; and WBETS to staff, partners and customers.

5. Install WEC applications; configure and remotely troubleshoot clerks' computers, printers and scanners; resolve incidents related to connectivity to the SVRS domain through internet connections.

6. Receive, track and refer WEC business issues to appropriate staff for resolution. Track calls and resolutions from users of WEC applications. Confirm with other WEC staff when there is a change to the status of a problem. Maintain inquiry files pertaining to problem tickets.

7. Analyze technical information and provide recommendations to resolve statewide application problems. Recommend changes to roles, standards and procedures which would benefit WEC customers or Service Desk effectiveness.

8. Communicate Service Desk staff and system problems to management to meet standards for accuracy, completeness and follow-up.

9. Provide input into the development of training plans for Service Desk staff. Perform staff training where appropriate. Assist in the assignment and review of staff work and provide feedback on staff performance.

10. Work with supervisor to encourage and promote successful working relationships among staff to improve productivity and staff retention. Negotiate staff conflicts to maintain an effective and professional work environment.

11. Take customer calls as needed. Respond to written and verbal inquiries regarding

AMERICAN OVERSIGHT
WI-REP-22-0106-A-000738

WEC business information. Provide analysis and resolution to problems called into the WEC Service Desk.

12. Assist users in running and trouble-shooting reports generated from all WEC systems and platforms. Perform analytics on WEC websites and applications.

13. Maintain excellent working relationship with clerk users. Communicate with members of the public, county and municipal clerks and staff in a courteous and professional manner.

25%

B. Administer agency IT operational software.

1. Serve as designated agency email administrator of enterprise Outlook mailboxes, staff/user access, mailbox sizes and archives. Manage the agency Outlook distribution lists, shared mailboxes and enterprise email accounts.

2. Administer the agency Lyris ListServe email contact management software. Manage lists and work to resolve email delivery issues and ensure communication is completed to the agency customers and contacts.

3. Administer the agency Identity and Access Management (IAM) secure access account system. Onboarding new staff, change, deletes and suspend enterprise user accounts.

4. Coordinate and manage the delivery of system upgrades, patches or other projects to maintain WEC staff and LAN/WAN network at DOA/DET Enterprise standards.

5. Administer Active Directory objects, user accounts, passwords and security for WEC applications. Assign appropriate access roles and groups to users. Perform password resets and deletes or suspends to user accounts.

6. Install, upgrade, maintain and support agency specific software packages purchased through various vendors.

7. Perform Data Storage Management for WEC, identifying and verifying application and DB server storage requirements and capacities. Manage agency shared file storage system.

25%

C. Serve as IT liaison to other state agencies and vendors. Technical consulting to WEC agency operations and administration.

1. Act as agency Change Manager monitoring change planning and prepare reports. Review scheduled enterprise infrastructure changes which may impact WEC staff, customers or systems. Conduct change management activities and keep staff apprised of relevant information.

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2. Approval authority for WEC IS systems authorizing DET data center changes.

3. Serve as agency Telecomm Manager and primary contact for voice services and voice mailbox accounts. Represent WEC to the State Telecomm Managers Group.

4. Maintain agency IT asset inventories and act as technical consultant to financial department.

5. Communicate complex business requirements from business program leaders to technical and development leaders and teams.

6. Submit, approve and track service requests and problem tickets to the Division of Enterprise Technology (DET) for infrastructure work to be done on agency systems. Position is the primary point of contact and liaison to assist in diagnosis and resolution of incidents and problems.

7. Liaison with and represent WEC to interagency IT groups like WI ISAC Security Officers Group; Email Administrators Group; Designated Information Systems Council (DISC); various Customer Advisory Groups (CAGs); and Change Management (OpCom). Represent WEC to the Information Technology Directors Council (ITDC) group. Appraise agency administration of developments and activities.

10%

D. Provide technical service desk support to WEC management and staff.

1. Communicate complex technical information to an audience with a wide range of technical expertise.

2. Serve as first point of contact for technical incident support and assist staff as necessary with desktop computer, LAN/WAN and enterprise wireless issues.

3. Conduct research, evaluate, recommend and consult on IS solutions available to WEC administration and program leaders.

4. Conduct SQL queries. Query Cherwell service center. Provide management with status reports on Service Desk problem tickets and service requests.

5. When not resolved per ITIL standards assist technical staff with further incident analysis and follow-up or recommend an escalation procedure.

6. Audit vendor services assuring adequate response and resolution time to staff and customer's requests.

7. Develop customer service procedures establishing ITIL methodology.

8. Provide feedback to management on solutions to common or developing customer problems.

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5%

E. Carry out special projects and assignments as directed by management.

1. Prepare and present written reports and recommendations to management.

2. Coordinate and conduct project meetings of agency staff and interagency staff.

KNOWLEDGE, SKILLS and ABILITY REQUIRED

1. Expert knowledge of Microsoft systems, CRM, SQL database and data processing concepts.

2. Extensive knowledge of enterprise level server infrastructure; SAN; WAN; LAN and wireless networks. Knowledge of enterprise level BCN, internet networks, local connectivity and secure data exchange techniques.

3. Knowledge of workstation configuration and deployment.

4. Extensive knowledge of data security best practices and techniques. Knowledge of IS security best practices, security risk and vulnerability assessments.

5. Considerable knowledge of project and portfolio management, methodologies and techniques meeting PMI standards.

6. Considerable knowledge of change management processes and establishing an ITIL framework standard.

7. Knowledge of policy and procedure development and implementation including operational and strategic planning skills.

8. Knowledge of general office practices and procedures.

9. Effective oral and written communication skills. Ability to effectively communicate complex technical information to an audience with a wide range of technical expertise.

10. Ability to plan, organize, prioritize and implement workload.

11. Ability to establish and maintain effective working relationships with other agencies, the public, customers and co-workers. Effective team building skills.

12. Proficient with Microsoft Office Suite, Web applications, Enterprise Outlook email.

13. Ability to identify complex root cause problems and review related information to develop and evaluate options and implement solutions.

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14. Knowledge of design techniques, tools and principles involved in the development of complex technical plans and models.

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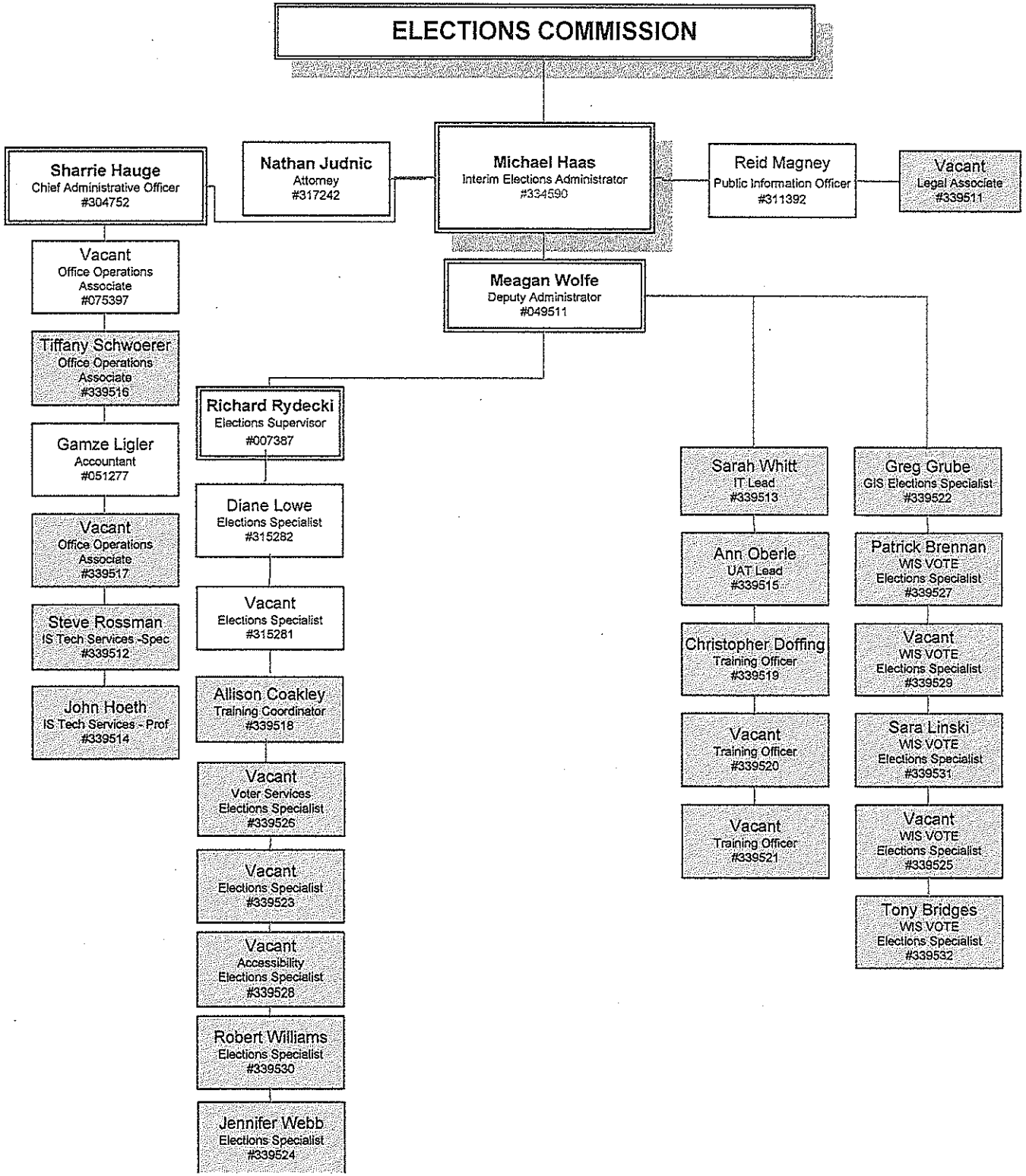


Note: Federal Positions

WI-REP-22-0106-A-000743

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339512	18-006	51000

4. NAME OF EMPLOYEE
Steve Rossman

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Technical Services Specialist

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION
WEC Service Desk Lead

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Sharrie Hauge, Financial Program Supv

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
Jan 2016

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

Please see attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	Please see attached.

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Sharrie Hauge Date 8/10/17

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee [signature] Date 8/10/17

18. Signature of Human Resources Manager [signature] Date

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission
IS Technical Services Specialist
WEC Service Desk Lead

(Position #339512)

POSITION SUMMARY

The Wisconsin Elections Commission (WEC) Service Desk provides customer service to many units of government, including 1,851 municipal clerks and 72 county clerks throughout the State of Wisconsin, in the areas of application user support and election business process support. The WEC Service Desk supports over 2,000 clerks and state staff users in the WisVote Election Management System which contains over 3.7 million voter registration records, election management processes, election reporting and other election administration information.

This position guides the day-to-day work of the staff for the WEC Technical Service Desk for the WisVote system including applications such as WisVote, MyVote, Election Data Collection, Canvass, Badger Voters, and Election Training applications. This position provides leadership, customer service expertise and advanced technical expertise across multiple platforms of WEC systems, the WisVote domain and the state Enterprise network.

This position develops documents and implements technical standards, processes and policies relevant to the ongoing operation of the WEC. The incumbent is the agency authority in the Information Technology Infrastructure Library (ITIL) service management; incident, problem and change management; ITIL framework; problem diagnosis and resolution and process and procedure development.

This position is a member of the agency IS Functional Team and provides strategic advice to the agency IT Director and agency administration. This position serves as the primary liaison to the Division of Enterprise Technology on behalf of the WEC technical systems and staff.

Responsibilities include participation in the development of short and long range information technology initiatives and objectives consistent with agency and divisional guidelines, tactical and strategic business planning and management of technical services (e.g., network, security, service desk, etc.) in support of the programs and business plans of the agency. Further, the position is responsible for developing structure and processes to apply new technologies and/or methodologies effectively within the organization ensuring customer focused delivery of enterprise services.

Specific to technical support, work includes oversight and ongoing evaluation of agency workstation software, server requirements and configurations, network and firewall architecture requirements and data communication structural needs.

Specific to applications support, the position leads the support and change management of multiple platform projects that include business needs assessment and problem identification, evaluation of resources and ensuring effective customer communication and other related functions.

AMERICAN OVERSIGHT

DUTIES AND RESPONSIBILITIES

35%

A. General management of day-to-day operations of WEC Elections & Technical Service Desk requirements.

1. Monitor the Service Desk staff to ensure adequate service for incoming customer calls. Communicate with staff and other lead workers to ensure that maximum staff resources are providing phone coverage during peak periods.

2. Ensure that incident and change management policies and procedures are followed by Service Desk staff. Ensure that any Service Desk specific policies and procedures are followed. Where chronic cases of non-adherence are apparent, inform the supervisor.

3. Act as a resource for Service Desk staff on a wide variety of technical issues such as problem diagnosis, escalation procedures and database processes.

4. Provide multi-platform technical support to all WEC program application areas including WisVote; MyVote; SVRS Domain; WEDC; and WBETS to staff, partners and customers.

5. Install WEC applications; configure and remotely troubleshoot clerks' computers, printers and scanners; resolve incidents related to connectivity to the SVRS domain through internet connections.

6. Receive, track and refer WEC business issues to appropriate staff for resolution. Track calls and resolutions from users of WEC applications. Confirm with other WEC staff when there is a change to the status of a problem. Maintain inquiry files pertaining to problem tickets.

7. Analyze technical information and provide recommendations to resolve statewide application problems. Recommend changes to roles, standards and procedures which would benefit WEC customers or Service Desk effectiveness.

8. Communicate Service Desk staff and system problems to management to meet standards for accuracy, completeness and follow-up.

9. Provide input into the development of training plans for Service Desk staff. Perform staff training where appropriate. Assist in the assignment and review of staff work and provide feedback on staff performance.

10. Work with supervisor to encourage and promote successful working relationships among staff to improve productivity and staff retention. Negotiate staff conflicts to maintain an effective and professional work environment.

11. Take customer calls as needed. Respond to written and verbal inquiries regarding

AMERICAN OVERSIGHT

WEC business information. Provide analysis and resolution to problems called into the WEC Service Desk.

12. Assist users in running and trouble-shooting reports generated from all WEC systems and platforms. Perform analytics on WEC websites and applications.

13. Maintain excellent working relationship with clerk users. Communicate with members of the public, county and municipal clerks and staff in a courteous and professional manner.

25%

B. Administer agency IT operational software.

1. Serve as designated agency email administrator of enterprise Outlook mailboxes, staff/user access, mailbox sizes and archives. Manage the agency Outlook distribution lists, shared mailboxes and enterprise email accounts.

2. Administer the agency Lyris ListServe email contact management software. Manage lists and work to resolve email delivery issues and ensure communication is completed to the agency customers and contacts.

3. Administer the agency Identity and Access Management (IAM) secure access account system. Onboarding new staff, change, deletes and suspend enterprise user accounts.

4. Coordinate and manage the delivery of system upgrades, patches or other projects to maintain WEC staff and LAN/WAN network at DOA/DET Enterprise standards.

5. Administer Active Directory objects, user accounts, passwords and security for WEC applications. Assign appropriate access roles and groups to users. Perform password resets and deletes or suspends to user accounts.

6. Install, upgrade, maintain and support agency specific software packages purchased through various vendors.

7. Perform Data Storage Management for WEC, identifying and verifying application and DB server storage requirements and capacities. Manage agency shared file storage system.

25%

C. Serve as IT liaison to other state agencies and vendors. Technical consulting to WEC agency operations and administration.

1. Act as agency Change Manager monitoring change planning and prepare reports. Review scheduled enterprise infrastructure changes which may impact WEC staff, customers or systems. Conduct change management activities and keep staff apprised of relevant information.

AMERICAN OVERSIGHT

2. Approval authority for WEC IS systems authorizing DET data center changes.

3. Serve as agency Telecomm Manager and primary contact for voice services and voice mailbox accounts. Represent WEC to the State Telecomm Managers Group.

4. Maintain agency IT asset inventories and act as technical consultant to financial department.

5. Communicate complex business requirements from business program leaders to technical and development leaders and teams.

6. Submit, approve and track service requests and problem tickets to the Division of Enterprise Technology (DET) for infrastructure work to be done on agency systems. Position is the primary point of contact and liaison to assist in diagnosis and resolution of incidents and problems.

7. Liaison with and represent WEC to interagency IT groups like WI ISAC Security Officers Group; Email Administrators Group; Designated Information Systems Council (DISC); various Customer Advisory Groups (CAGs); and Change Management (OpCom). Represent WEC to the Information Technology Directors Council (ITDC) group. Appraise agency administration of developments and activities.

10%

D. Provide technical service desk support to WEC management and staff.

1. Communicate complex technical information to an audience with a wide range of technical expertise.

2. Serve as first point of contact for technical incident support and assist staff as necessary with desktop computer, LAN/WAN and enterprise wireless issues.

3. Conduct research, evaluate, recommend and consult on IS solutions available to WEC administration and program leaders.

4. Conduct SQL queries. Query Cherwell service center. Provide management with status reports on Service Desk problem tickets and service requests.

5. When not resolved per ITIL standards assist technical staff with further incident analysis and follow-up or recommend an escalation procedure.

6. Audit vendor services assuring adequate response and resolution time to staff and customer's requests.

7. Develop customer service procedures establishing ITIL methodology.

8. Provide feedback to management on solutions to common or developing customer problems.

AMERICAN OVERSIGHT

5%

E. Carry out special projects and assignments as directed by management.

1. Prepare and present written reports and recommendations to management.

2. Coordinate and conduct project meetings of agency staff and interagency staff.

KNOWLEDGE, SKILLS and ABILITY REQUIRED

1. Expert knowledge of Microsoft systems, CRM, SQL database and data processing concepts.

2. Extensive knowledge of enterprise level server infrastructure; SAN; WAN; LAN and wireless networks. Knowledge of enterprise level BCN, internet networks, local connectivity and secure data exchange techniques.

3. Knowledge of workstation configuration and deployment.

4. Extensive knowledge of data security best practices and techniques. Knowledge of IS security best practices, security risk and vulnerability assessments.

5. Considerable knowledge of project and portfolio management, methodologies and techniques meeting PMI standards.

6. Considerable knowledge of change management processes and establishing an ITIL framework standard.

7. Knowledge of policy and procedure development and implementation including operational and strategic planning skills.

8. Knowledge of general office practices and procedures.

9. Effective oral and written communication skills. Ability to effectively communicate complex technical information to an audience with a wide range of technical expertise.

10. Ability to plan, organize, prioritize and implement workload.

11. Ability to establish and maintain effective working relationships with other agencies, the public, customers and co-workers. Effective team building skills.

12. Proficient with Microsoft Office Suite, Web applications, Enterprise Outlook email.

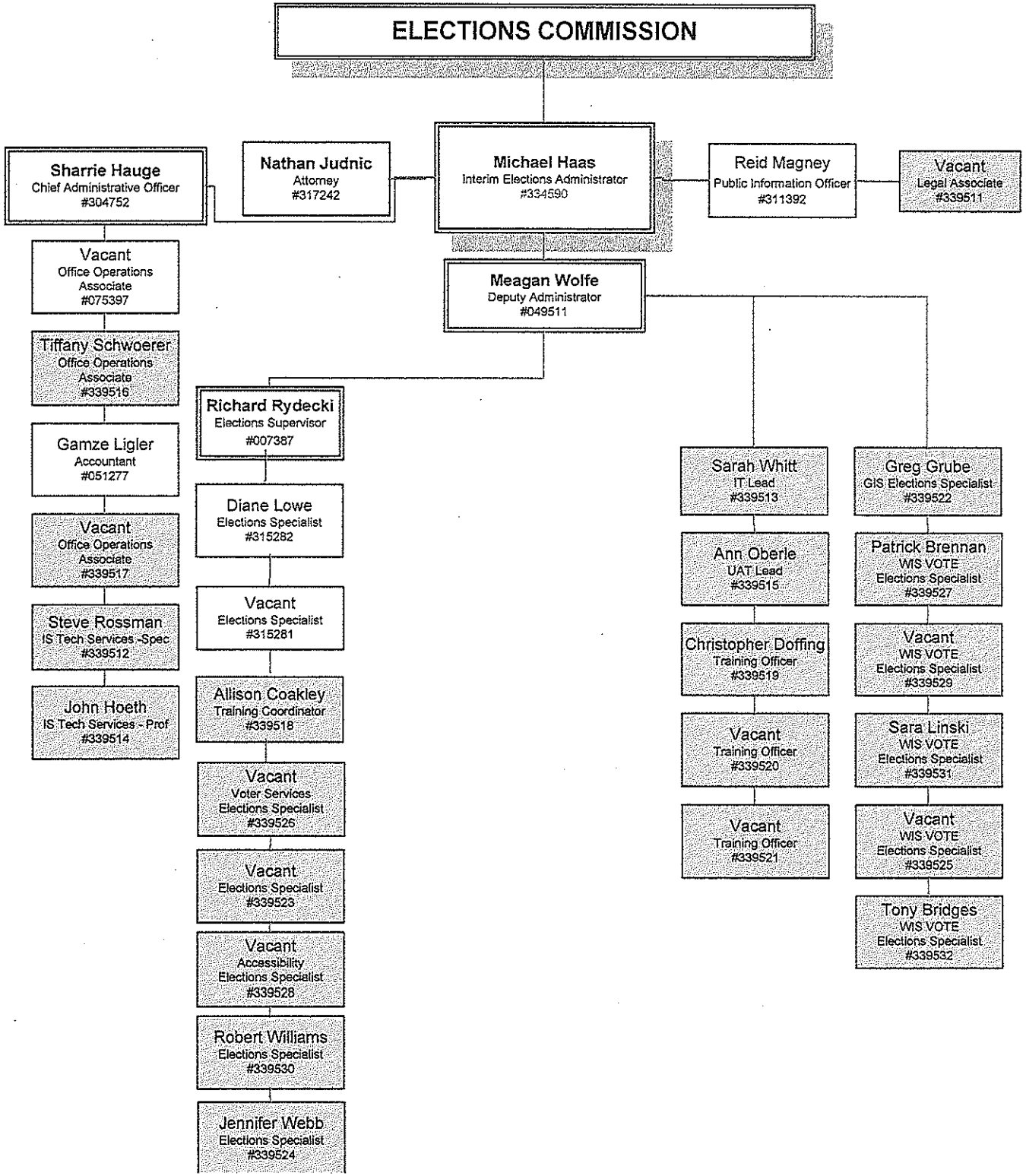
13. Ability to identify complex root cause problems and review related information to develop and evaluate options and implement solutions.

AMERICAN OVERSIGHT

14. Knowledge of design techniques, tools and principles involved in the development of complex technical plans and models.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT



Note: Federal Positions

WI-REP-22-0106-A-000751

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339518	ATTH210035	510

4. NAME OF EMPLOYEE
Claudia Santana

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E. Washington Ave., 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Resources Support Tech-Intermediate

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Sharrie Hauge, Financial Program Supervisor

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
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— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
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a. The supervision, direction, and review given to the work of this position is ○ close ◉ limited ○ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Sharrie Hauge Date 6/14/2021

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee CLD Date 7/6/21

18. Signature of Human Resources Manager Julie Kisely Date 06/14/2021

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION

IS Resources Support Tech Intermediate - Bilingual
Position #339518

Position Summary

The Wisconsin Elections Commission (WEC) Help Desk provides customer service to many units of government, including 1,851 municipal clerks and 72 county clerks throughout the State of Wisconsin, in the areas of application user support and election business process support. The WEC Help Desk supports over 2,000 clerks and state staff users in the WisVote Election Management System which contains over 3.7 million voter registration records, election management processes, election reporting and other election administration information. This person also services Spanish speaking customers ensuring accurate voter information is translated both verbally and in writing.

Under limited progressing to general supervision of the Chief Administrative Officer, this position provides support for the services of the WEC Help Desk for WisVote. Duties include generating logon ID's and passwords for all WisVote users, responding to Help Desk calls, resolving issues, tracking calls in the call center log, resetting passwords for users, and forwarding issues to appropriate staff.

This position also provides a full range of high level administrative and program support to the WEC management team and staff. Wisconsin Elections Commission staff members are required to be non-partisan.

Goals and Worker Activities

35%

A. Ensure the delivery of quality customer service for WisVote Users.

A1. Respond to inquiries, both written and verbal regarding WisVote application information and Wisconsin's election administration business process particularly as it pertains to voter registration.

A2. Maintain problem call log database which tracks the calls and resolutions from users of the WisVote application. Confirm with other WisVote staff when there is a change to the status of the problem.

A3. Receive, track, and refer business process issues to appropriate staff for timely resolution. Resolve general election administration issues.

A4. Assist users in trouble-shooting issues in WisVote, especially running reports, maintaining voter information and election set-up.

A5. Monitor Help Desk email in-box to ensure inquiries are answered timely.

AMERICAN OVERSIGHT

A6. Create and send administrative messages to users, as necessary.

30%

B. Provide technical and server support for software and systems for WEC.

B1. Generate logon ID's and passwords for all WisVote users. Assign proper user roles, perform password resets, and deletes or suspend user accounts.

B2. Assist with the technical analysis supporting data management, file conversions, file organization methods, system implementation, and data recovery procedures for optimum system performance.

B3. Participate in system design meetings to develop objectives and requirements of new systems or maintenance to existing systems.

B4. Provide technical support staff with further analysis of problems and follow escalation procedures if the problem is not resolved.

B5. Assist in developing operating procedures for the Wisconsin Elections Commission Help Desk Team lead.

B6. Provide feedback to WEC/WisVote management and staff on solutions to common WisVote and election administration user problems, concerns, and inquiries.

30%

C. Provide administrative and program support to WEC/WisVote management and staff.

C1. Provide a variety of executive level administrative and support services to the Administrator, Management team and staff.

C2. Keep electronic calendar up to date for Administrator. Organize, schedule, and arrange meetings, conferences and personal appearances that involve the Administrator and assemble necessary resources.

C3. Coordinate travel reservations, lodging, transportation, payment and meeting arrangements for the Administrator and agency staff. Prepare itinerary, including all information and specific instructions for each travel assignment. Prepare individual travel folders.

C4. Prepare accurate monthly travel expense reports for the as needed assuring all travel expenses meet state guidelines.

C5. Provide back-up receptionist assistance.

AMERICAN OVERSIGHT

CJS
7/6/21

C6. Provide administrative support to the training program.

5%

D. Carry out special projects and assignments as directed by agency management.

Knowledge, Skills and Abilities

1. Knowledge of Federal and State election laws, board policies, methods, and procedures.
2. Knowledge of general office practices and procedures.
3. Knowledge of data and word processing concepts
4. Effective oral and written communication skills
5. Ability to plan, organize, prioritize, and implement workload.
6. Ability to establish and maintain effective working relationships with the public and co-workers.
7. Ability to work on a team and in a team environment exuding strong interpersonal skills.
8. Proficient in Microsoft Office Suite and strong computer aptitude to learn agency specific software.
9. Experience with Active Directory and Help Desk tracking tools.
10. Ability to communicate program information to a diverse group of customers, including Spanish speaking population.

Safety Requirements

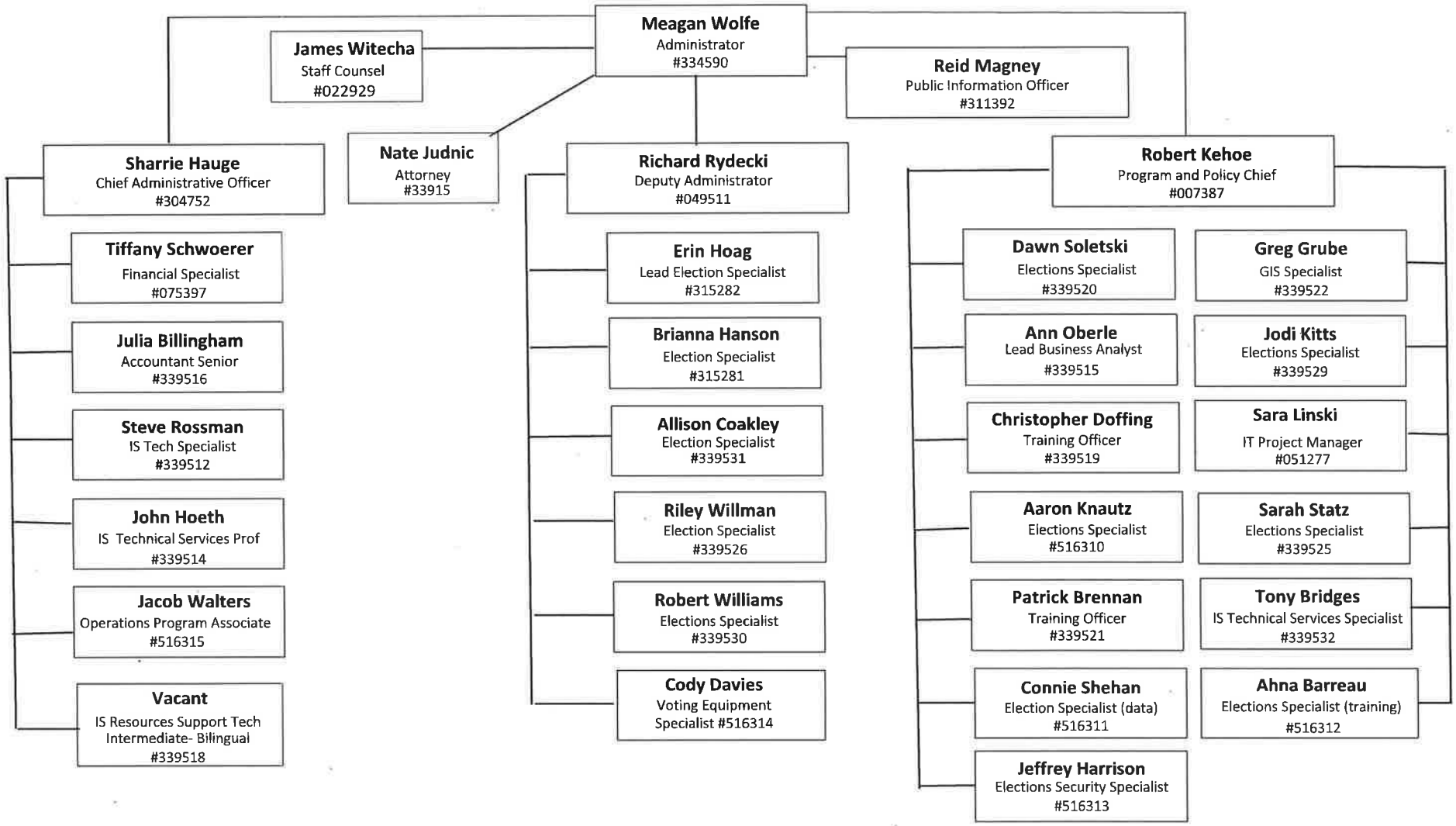
- Follow all Department safety guidelines and standards in order to maintain safe working conditions.
- Report to supervisor all incidents, accidents and near misses that resulted or could have resulted in personal injury or personal injury of a co-worker.
- Wear appropriate personal protective equipment in designated areas.
- Attend appropriate safety training sessions, as directed.
- Offer safety and health suggestions to co-workers to reduce risk.

AMERICAN OVERSIGHT

7/6/21

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000756

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339518	ATTH210035	510

4. NAME OF EMPLOYEE
Claudia Santana

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E. Washington Ave., 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Resources Support Tech-Intermediate

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Sharrie Hauge, Financial Program Supervisor

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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See Attached

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TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
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16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

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b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Sharrie Hauge Date 6/14/2021

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee CLD Date 7/6/21

18. Signature of Human Resources Manager Julie Kisely Date 06/14/2021

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☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION

IS Resources Support Tech Intermediate - Bilingual
Position #339518

Position Summary

The Wisconsin Elections Commission (WEC) Help Desk provides customer service to many units of government, including 1,851 municipal clerks and 72 county clerks throughout the State of Wisconsin, in the areas of application user support and election business process support. The WEC Help Desk supports over 2,000 clerks and state staff users in the WisVote Election Management System which contains over 3.7 million voter registration records, election management processes, election reporting and other election administration information. This person also services Spanish speaking customers ensuring accurate voter information is translated both verbally and in writing.

Under limited progressing to general supervision of the Chief Administrative Officer, this position provides support for the services of the WEC Help Desk for WisVote. Duties include generating logon ID's and passwords for all WisVote users, responding to Help Desk calls, resolving issues, tracking calls in the call center log, resetting passwords for users, and forwarding issues to appropriate staff.

This position also provides a full range of high level administrative and program support to the WEC management team and staff. Wisconsin Elections Commission staff members are required to be non-partisan.

Goals and Worker Activities

35%

A. Ensure the delivery of quality customer service for WisVote Users.

A1. Respond to inquiries, both written and verbal regarding WisVote application information and Wisconsin's election administration business process particularly as it pertains to voter registration.

A2. Maintain problem call log database which tracks the calls and resolutions from users of the WisVote application. Confirm with other WisVote staff when there is a change to the status of the problem.

A3. Receive, track, and refer business process issues to appropriate staff for timely resolution. Resolve general election administration issues.

A4. Assist users in trouble-shooting issues in WisVote, especially running reports, maintaining voter information and election set-up.

A5. Monitor Help Desk email in-box to ensure inquiries are answered timely.

AMERICAN OVERSIGHT

7/6/22

A6. Create and send administrative messages to users, as necessary.

30%

B. Provide technical and server support for software and systems for WEC.

B1. Generate logon ID's and passwords for all WisVote users. Assign proper user roles, perform password resets, and deletes or suspend user accounts.

B2. Assist with the technical analysis supporting data management, file conversions, file organization methods, system implementation, and data recovery procedures for optimum system performance.

B3. Participate in system design meetings to develop objectives and requirements of new systems or maintenance to existing systems.

B4. Provide technical support staff with further analysis of problems and follow escalation procedures if the problem is not resolved.

B5. Assist in developing operating procedures for the Wisconsin Elections Commission Help Desk Team lead.

B6. Provide feedback to WEC/WisVote management and staff on solutions to common WisVote and election administration user problems, concerns, and inquiries.

30%

C. Provide administrative and program support to WEC/WisVote management and staff.

C1. Provide a variety of executive level administrative and support services to the Administrator, Management team and staff.

C2. Keep electronic calendar up to date for Administrator. Organize, schedule, and arrange meetings, conferences and personal appearances that involve the Administrator and assemble necessary resources.

C3. Coordinate travel reservations, lodging, transportation, payment and meeting arrangements for the Administrator and agency staff. Prepare itinerary, including all information and specific instructions for each travel assignment. Prepare individual travel folders.

C4. Prepare accurate monthly travel expense reports for the as needed assuring all travel expenses meet state guidelines.

C5. Provide back-up receptionist assistance.

AMERICAN OVERSIGHT

CJS
7/6/21

C6. Provide administrative support to the training program.

5%

D. Carry out special projects and assignments as directed by agency management.

Knowledge, Skills and Abilities

1. Knowledge of Federal and State election laws, board policies, methods, and procedures.
2. Knowledge of general office practices and procedures.
3. Knowledge of data and word processing concepts
4. Effective oral and written communication skills
5. Ability to plan, organize, prioritize, and implement workload.
6. Ability to establish and maintain effective working relationships with the public and co-workers.
7. Ability to work on a team and in a team environment exuding strong interpersonal skills.
8. Proficient in Microsoft Office Suite and strong computer aptitude to learn agency specific software.
9. Experience with Active Directory and Help Desk tracking tools.
10. Ability to communicate program information to a diverse group of customers, including Spanish speaking population.

Safety Requirements

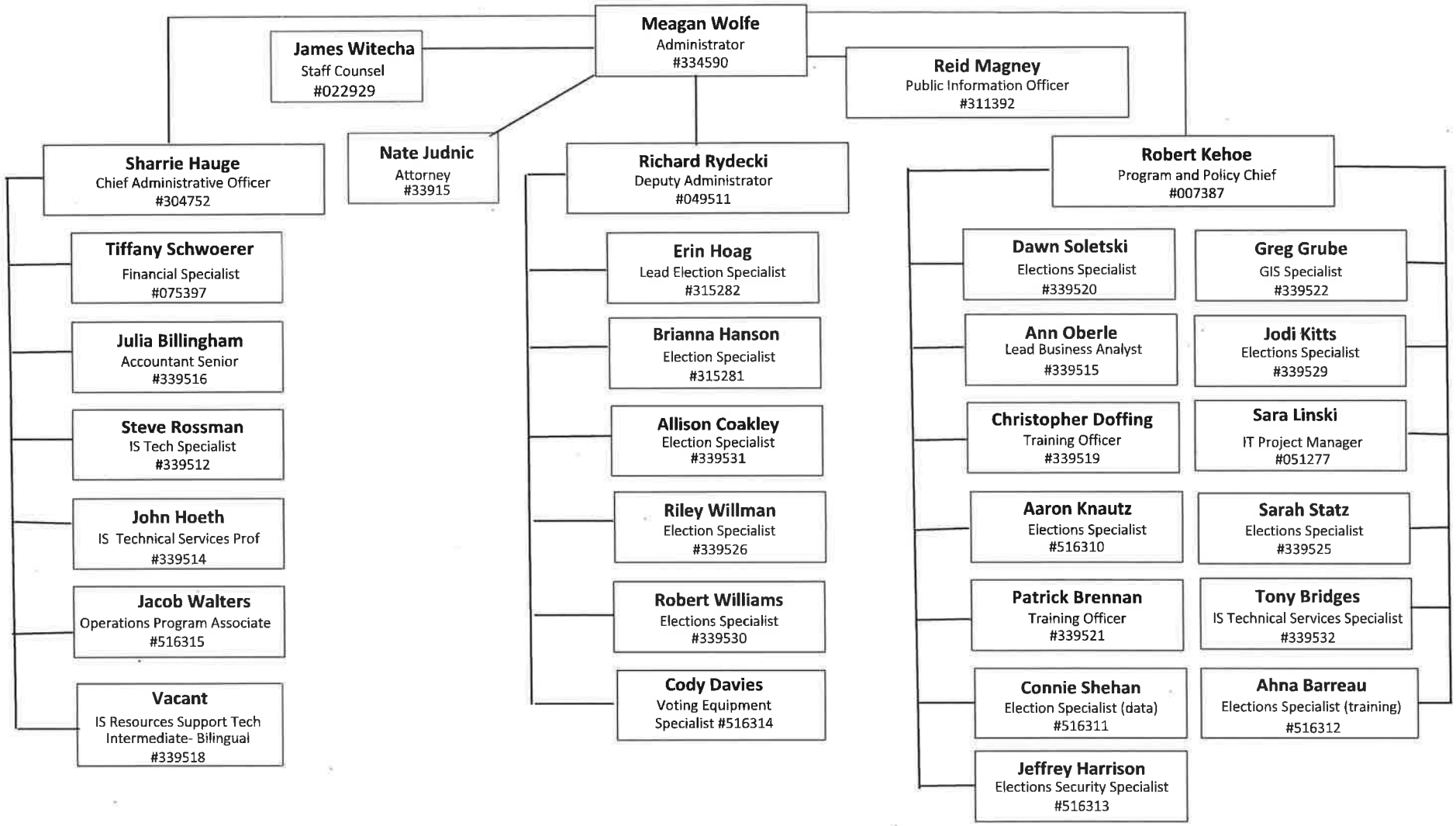
- Follow all Department safety guidelines and standards in order to maintain safe working conditions.
- Report to supervisor all incidents, accidents and near misses that resulted or could have resulted in personal injury or personal injury of a co-worker.
- Wear appropriate personal protective equipment in designated areas.
- Attend appropriate safety training sessions, as directed.
- Offer safety and health suggestions to co-workers to reduce risk.

AMERICAN OVERSIGHT

7/6/21

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000761

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
051277	ATTH200162	

4. NAME OF EMPLOYEE
Sara Linski

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Electinos Commission
212 E. Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Technical Services Consultant/Administrator

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Nathan Judnic, Electino Specialist Senior

9. AGENCY WORKING TITLE OF POSITION
IS Technical Project Manager

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Sara Linski, IS Technical Services Consultant/Administrator

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program and Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
09/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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(Continue on attached sheets)

TIME %	GOALS AND WORKER ACTIVITIES
45%	- Serve as Project Manager for the Wisconsin Elections Commission ' s agency technology, including the WisVote statewide voter registration system, MyVote Wisconsin public facing web interface, Badger Book ePoll Books, Badger Voters data request application, and other services as needed.
35%	- Manage and oversee IT contractor process and priorities in relation to agency IT project schedule.
10%	- Coordinate and communicate with agency management and election partners regarding project development and resources.
10%	- Carry out assignments to assist the agency Administrator, Assistant Administrator, Technology Director and other

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor RR Date 9/8/2020

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee SR Date 10/25/2020

18. Signature of Human Resources Manager Kristina Thole Digitally signed by Kristina Thole Date: 2020.09.16 07:22:07 -05'00' Date

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

State of Wisconsin Elections Commission

Position Description
Working Title: IS Technical Project Manager
Civil Service Classification: IS Technical Services Consultant/Administrator
Position # 051277

Position Summary

Under the general supervision of the Technology Director, the Project Manager position will be responsible for the day-to-day scheduling, oversight, and implementation of agency IT projects. This position will coordinate program and project activities with agency supervisors and lead workers to make sure all aspects of the project are fully integrated into the agency's business process and practices. This position requires the leadership and organizational skills necessary to ensure the success of agency IT projects.

This position is part of a fifteen-person program team of state employees as well as a team of five IT contract employees. This position will work closely with the agency's IT staff as well as agency Elections Specialists, trainers, and other program staff to plan, test, implement and maintain agency IT applications. This position will also coordinate feedback regarding agency technology with Wisconsin's Local Election Officials that include 1,850 Municipal Clerks and 72 County Clerks and their staff.

This position will also be responsible for developing, coordinating, and executing an agency IT project plan and schedule in close coordination with agency management to ensure the timely development, testing, and implementation for elections IT initiatives. This position will also coordinate the agency's IT contract development team and manage the IT contract process. This position will direct and oversee the development, testing, and maintenance of the WisVote system and related applications; the integration of training materials for agency technology and; development of IT system change processes, policies and procedures pertaining to agency technology.

Duties and Responsibilities

45%

A. Serve as Project Manager for the Wisconsin Elections Commission's agency technology, including the WisVote statewide voter registration system, MyVote Wisconsin public facing web interface, Badger Book ePoll Books, Badger Voters data request application, and other services as needed.

1. Develop a plan of action and schedule for accomplishing IT project milestones and objectives.
2. Coordinate meetings with supervisors, lead workers, and IT and program staff to discuss plans of action and timetables and to assign responsibilities.
3. Coordinate with training teams to assist in the creation of effective and comprehensive training programs.

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4. Meet regularly with the WisVote and IT teams to discuss the status of the projects, upcoming activities and to delegate and assign tasks.

5. Monitor team development team members' progress to ensure that team members are executing assigned responsibilities and that the project is on schedule.

6. Collaborate with Elections Administration, Help Desk, Legal, and Public Relations staff as needed to respond to requests for information or to inform future development.

7. Develop and prepare regular status reports and updates to agency management and the Commission.

8. Assess and determine how the agency's policies and business processes may be improved and make recommendations accordingly.

9. Identify best practices in elections technology through coordination with other state and federal elections partners.

35%

B. Manage and oversee IT contractor process and priorities in relation to agency IT project schedule.

1. Manage the IT contractor process for the agency through coordination with DOA and agency management. Includes oversight of contractor compliance, management of contracts through TapFin, and seeking required approvals from the Commission including expenditure authority and continued appropriateness documentation.

2. Regularly consult with the contract IT staff to ensure agency technology is developed, piloted, tested and fully operational and compliant with state and federal laws.

3. Coordinate priorities for IT contract staff, including development and testing schedules.

4. Coordinate IT contractor development schedules in conjunction with agency IS staff, the Elections Supervisor, the Assistant Administrator, and the Administrator.

5. Coordinate and conduct regular IT staff meetings to coordinate schedules and priorities of IT contract staff as well as agency WisVote staff related to the development, testing, and maintenance of agency IT applications.

10%

C. Coordinate and communicate with agency management and election partners regarding project development and resources.

1. Coordinate with agency elections specialists, IT staff, and the Public Information Officer when communicating with Local Election Officials, and/or

AMERICAN OVERSIGHT

educating electors and the general public about agency IT resources, goals, objectives and implementation strategies.

2. Conduct usability testing with end users to evaluate functionality of systems in development.

3. Assist with the drafting of fiscal estimates and the preparation of Commission materials and reports.

10%

D. Carry out assignments to assist the agency Administrator, Assistant Administrator, Technology Director and other agency management as necessary.

1. Trouble-shoot, mitigate and resolve potential problems effecting agency technology and programs before they escalate into more significant challenges.

2. Conduct special studies and prepare reports as needed.

Knowledge, Skills, and Abilities Required

1. Substantial knowledge of sound organizational principles and program development.
2. Substantial demonstrated experience in program management and project administration, including planning, development, budgeting, implementation, monitoring and evaluation.
3. Substantial demonstrated team-led experience (i.e. team leader, team-building, team coordinator).
4. Effective people skills and supervisory experience
5. Experience in preparing reports and making presentations.
6. Ability to practice effective organizational skills, scheduling, and time management skills with attention to detail.
7. Ability to plan, organize and prioritize workloads for others.
8. Ability to demonstrate initiative and independence in carrying out assigned tasks.
9. Ability to lead a team and work in a team environment.

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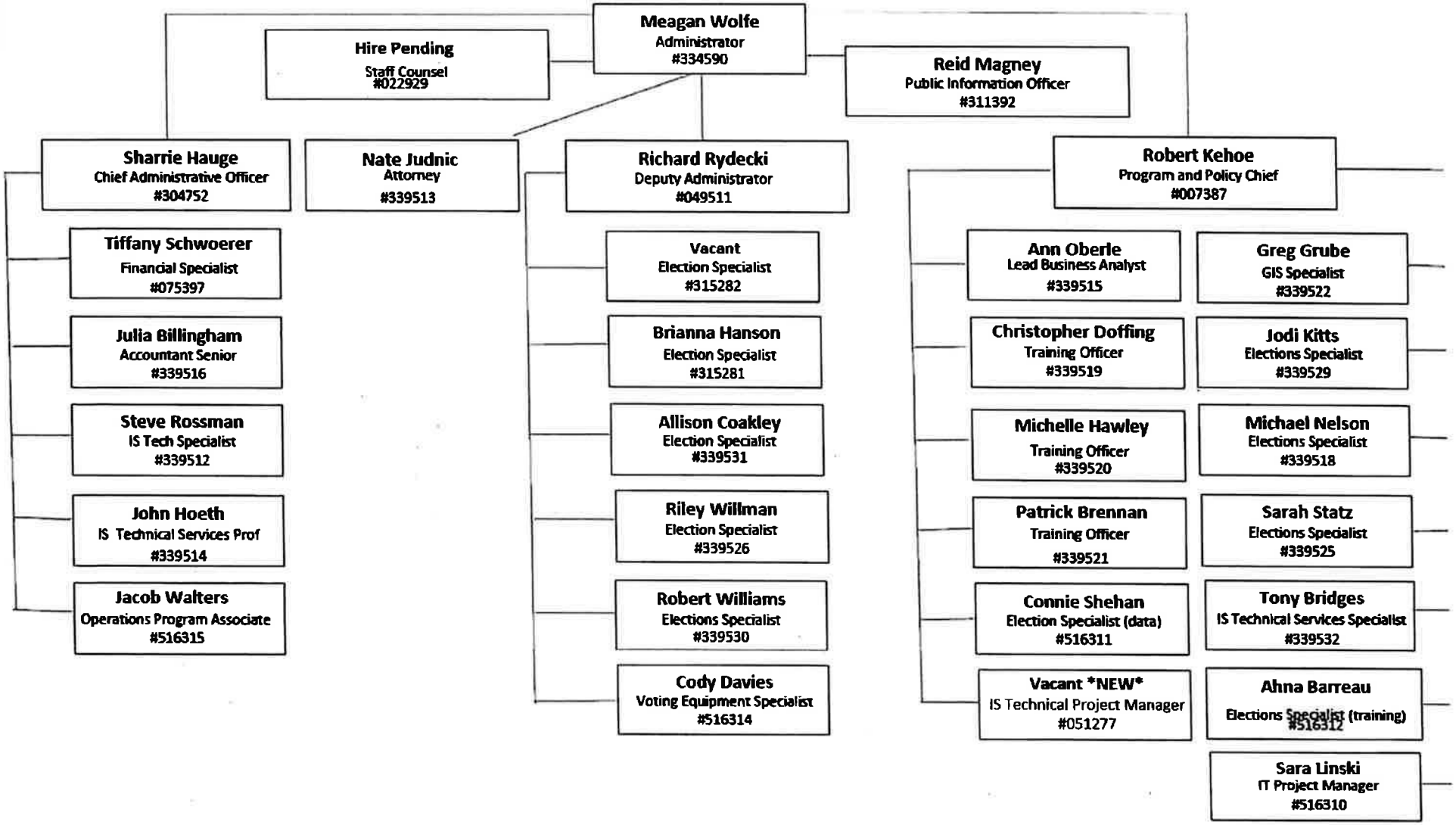
WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000766

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
051277	ATTH200162	

4. NAME OF EMPLOYEE
Sara Linski

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Electinos Commission
212 E. Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
IS Technical Services Consultant/Administrator

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
Nathan Judnic, Electino Specialist Senior

9. AGENCY WORKING TITLE OF POSITION
IS Technical Project Manager

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Sara Linski, IS Technical Services Consultant/Administrator

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program and Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
09/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

(Continue on attached sheets)

TIME %	GOALS AND WORKER ACTIVITIES
45%	- Serve as Project Manager for the Wisconsin Elections Commission ' s agency technology, including the WisVote statewide voter registration system, MyVote Wisconsin public facing web interface, Badger Book ePoll Books, Badger Voters data request application, and other services as needed.
35%	- Manage and oversee IT contractor process and priorities in relation to agency IT project schedule.
10%	- Coordinate and communicate with agency management and election partners regarding project development and resources.
10%	- Carry out assignments to assist the agency Administrator, Assistant Administrator, Technology Director and other

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Signature of first-line supervisor RR Date 9/8/2020

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Signature of employee SR Date 10/25/2020

18. Signature of Human Resources Manager Kristina Thole Digitally signed by Kristina Thole Date: 2020.09.16 07:22:07 -05'00' Date

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AMERICAN OVERSIGHT

State of Wisconsin Elections Commission

Position Description
Working Title: IS Technical Project Manager
Civil Service Classification: IS Technical Services Consultant/Administrator
Position # 051277

Position Summary

Under the general supervision of the Technology Director, the Project Manager position will be responsible for the day-to-day scheduling, oversight, and implementation of agency IT projects. This position will coordinate program and project activities with agency supervisors and lead workers to make sure all aspects of the project are fully integrated into the agency's business process and practices. This position requires the leadership and organizational skills necessary to ensure the success of agency IT projects.

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AMERICAN OVERSIGHT

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10%

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AMERICAN OVERSIGHT

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3. Assist with the drafting of fiscal estimates and the preparation of Commission materials and reports.

10%

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2. Conduct special studies and prepare reports as needed.

Knowledge, Skills, and Abilities Required

1. Substantial knowledge of sound organizational principles and program development.
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5. Experience in preparing reports and making presentations.
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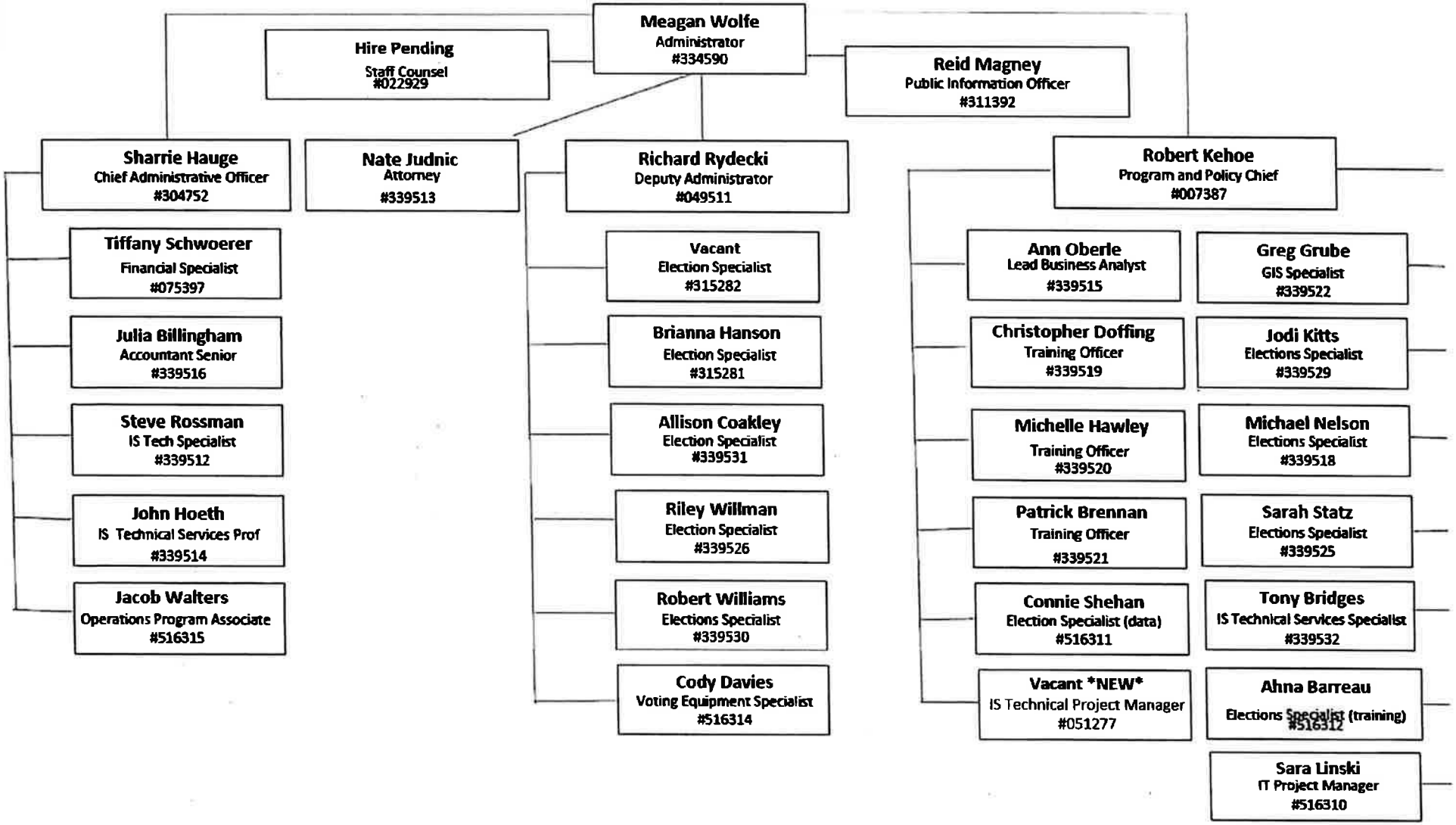
WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000771

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
075397	19-362P	510

4. NAME OF EMPLOYEE

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd floor
Madison, WI 53707

6. CLASSIFICATION TITLE OF POSITION
Financial Specialist

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Amy McGregor, Office Operations Associate

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Sharrie Hauge, Financial Program Supervisor

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☐
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)

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Signature of first-line supervisor _____ Date _____

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(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
FINANCIAL SPECIALIST

(Position # 075397)

POSITION SUMMARY

This position is responsible for auditing, coding and processing invoices and other financial documents; participates in the maintenance of computerized and paper fiscal records; prepares and processes expenditure reports and records; reconciles accounts and produces various financial reports. This position also has extensive contact with the general public, registrants, government officials and media in an informative capacity on a variety of matters. This position also provides program support to supervisory and administrative Wisconsin Elections Commission staff. Work is performed under close, progressing to general supervision of the Chief Administrative Officer.

DUTIES AND REPONSIBLITIES

35%

A. Provide fiscal management support for the Wisconsin Elections Commission.

1. Prepare purchase requisitions and direct charges in STAR for use in the agency's daily operations, procure authorizations, check funding sources, and forward for action to the agency Accountant.

2. Process invoices for supplies and services in STAR adhering to the s.16.528 Wis. Stats., rules and regulations. Verify receipt of order, check for proper coding and submit to appropriate staff for signature.

3. Prepares Accounts Payable and Journal Voucher documents in STAR as requested.

4. Review General Service billings and State Telephone System (STS) billings, check for errors and route to the agency Accountant for approval.

5. Review purchase order balances from expenditure reports and encumbrance reports rectifying any discrepancies.

6. Process travel reimbursement requests ensuring proper documentation is attached, current reimbursement rates are adhered to, proper signatures are received and follow-up on reimbursements when requested.

7. Process vouchers for payments to Wisconsin Elections Commission members. Prepare required IRS and WDOR forms based on per diem payment records, reimbursements for career development and travel reimbursement.

8. Prepare deposits and reconcile cash receipts across various appropriations. Create CR documents in STAR for all deposits. Fill out a US Bank Deposit Record slip and prepare monies for deposit. Take cash to US-Bank and route the cash deposit slip along with check deposit to the State Controller's Office in DOA.

9. Assist the Agency's budget officer in researching and preparing statistical and administrative reports for budget development and other purposes as directed.

AMERICAN OVERSIGHT

20%

B. Perform Fiscal-Year Related Financial Transactions

1. Assist with audit transactions to ensure payments are processed in the proper fiscal year in accordance with budgetary/statutory intent. This involves working with both carryover and non-carryover appropriations.

2. Assist the agency accountant by preparing documents for year-end closeouts and fiscal year carryovers by reconciling all appropriations, both income and revenue and liquidating purchase orders as directed.

3. Assist the Agency's budget officer in setting up new fiscal year budgets.

4. Assist in creating new fiscal year billing codes for the agency, which includes PRF use codes.

5. Provide photocopying services for the public and the media as a result of mail and telephone requests for information packets, forms, documents, records, etc. Process requests within 48 hours of receipt, after ensuring that proper payment is received, if necessary.

20%

C. Provide agency receptionist services.

1. Respond to inquiries (written, on the phone and in person) regarding program information, elections, voter registration, deadlines and procedures from candidates, government officials, and county and municipal clerks and general public.

2. Answer general inquiries about election and voter registration laws, deadlines and procedures. Route calls as necessary to other staff members, taking messages as needed.

3. Provide direction to registrants filing documents, including nomination papers, declaration of candidacy statements and campaign registration statements. Enter required data into the computer system following established procedures. Refer customers to appropriate staff for specialized and detailed instructions.

4. Maintain daily log of all incoming telephone calls. Prepare monthly telephone report.

5. Maintain monthly logs recording the number of voter registration applications received, the number of voter cancellations received, the number of customers viewing materials, the number of files viewed, and the number of requests received for general information and photocopies.

6. Pick-up and deliver mail twice daily (more often during peak workloads). Date stamp, sort and distribute all incoming mail to appropriate staff.

15%

D. Provide a variety of administrative assistance to supervisory and administrative Wisconsin Elections Commission staff.

1. Process out of state voter cancellations; enter cancellations in the WisVote system.

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2. Process incompetency findings data received from the Circuit Courts.

3. Check the WisVote system to determine if the name matches the same name in the notice. If the name does not appear in WisVote, then enter information in the Incompetent database.

4. Log and track all complaints received by the Wisconsin Elections Commission and prepare complaint related documents and distribute copies to enforcement staff. Record updates and disposition of complaints.

10%

E. Coordination and preparation for the Wisconsin Elections Commission Meetings

1. Assume full responsibility for administrative and financial preparations for public meetings of the Wisconsin Elections Commission.

2. Coordinate with in-house staff for completion of the agenda and meeting memos in a timely manner.

3. Ensure the Commission material booklets are photocopied and distributed to the Commission members, appropriate staff, subscribers, and other interested persons in a timely manner.

4. Manage travel and financial arrangements for Commission members and staff. Process any necessary travel reimbursements through STAR PeopleSoft.

Required Knowledge, Skills and Abilities

1. Knowledge of general office practices and procedures.

2. Knowledge of general accounting methods.

3. Knowledge of data and word processing concepts.

4. Knowledge of, and skills in, Microsoft Office Suite.

5. Computer skills include the ability to utilize STAR PeopleSoft and excel spreadsheets.

6. Ability to establish and maintain effective working relationships with the public and coworkers.

7. Ability to understand and follow written and oral instructions.

8. Ability to work independently, setting priorities to meet the demands of the position and work deadlines.

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Special Requirements

- Ability to work 7:45 a.m. – 4:30 p.m., Monday-Friday, with occasional extended hours during peak times.

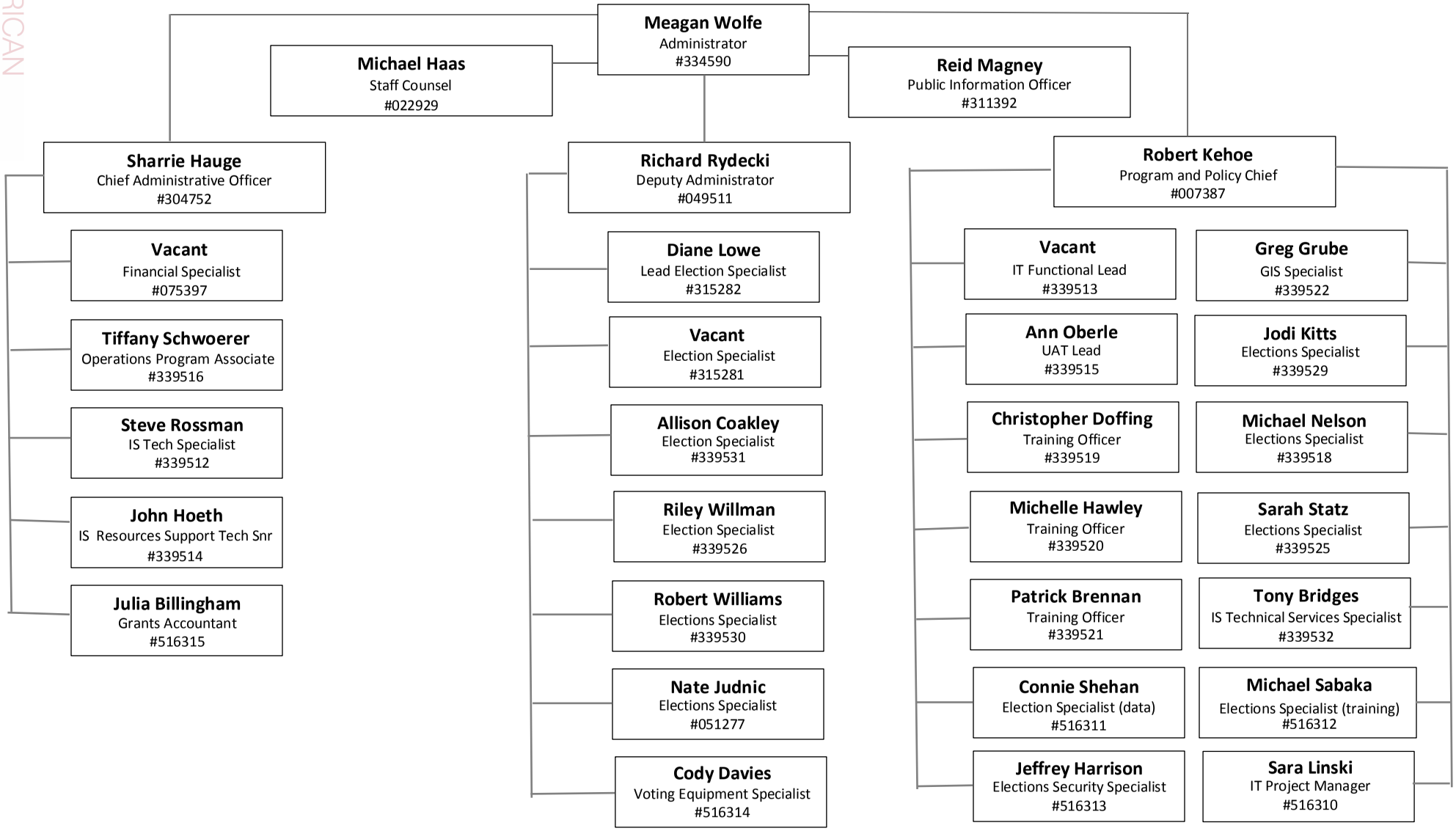
- Ability to lift moderately heavy boxes, up to 20 pounds, with or without an accommodation.

Must comply with the agency's nonpartisan requirements.

H:\seb admin records\personnel\position descriptions\financial specialist 2.4.19

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
075397	19-362P	510

4. NAME OF EMPLOYEE

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd floor
Madison, WI 53707

6. CLASSIFICATION TITLE OF POSITION
Financial Specialist

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Amy McGregor, Office Operations Associate

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Sharrie Hauge, Financial Program Supervisor

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TIME %	GOALS AND WORKER ACTIVITIES

(Continue on attached sheets)

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Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
FINANCIAL SPECIALIST

(Position # 075397)

POSITION SUMMARY

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DUTIES AND REPONSIBLITIES

35%

A. Provide fiscal management support for the Wisconsin Elections Commission.

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9. Assist the Agency's budget officer in researching and preparing statistical and administrative reports for budget development and other purposes as directed.

AMERICAN OVERSIGHT

20%

B. Perform Fiscal-Year Related Financial Transactions

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2. Assist the agency accountant by preparing documents for year-end closeouts and fiscal year carryovers by reconciling all appropriations, both income and revenue and liquidating purchase orders as directed.

3. Assist the Agency's budget officer in setting up new fiscal year budgets.

4. Assist in creating new fiscal year billing codes for the agency, which includes PRF use codes.

5. Provide photocopying services for the public and the media as a result of mail and telephone requests for information packets, forms, documents, records, etc. Process requests within 48 hours of receipt, after ensuring that proper payment is received, if necessary.

20%

C. Provide agency receptionist services.

1. Respond to inquiries (written, on the phone and in person) regarding program information, elections, voter registration, deadlines and procedures from candidates, government officials, and county and municipal clerks and general public.

2. Answer general inquiries about election and voter registration laws, deadlines and procedures. Route calls as necessary to other staff members, taking messages as needed.

3. Provide direction to registrants filing documents, including nomination papers, declaration of candidacy statements and campaign registration statements. Enter required data into the computer system following established procedures. Refer customers to appropriate staff for specialized and detailed instructions.

4. Maintain daily log of all incoming telephone calls. Prepare monthly telephone report.

5. Maintain monthly logs recording the number of voter registration applications received, the number of voter cancellations received, the number of customers viewing materials, the number of files viewed, and the number of requests received for general information and photocopies.

6. Pick-up and deliver mail twice daily (more often during peak workloads). Date stamp, sort and distribute all incoming mail to appropriate staff.

15%

D. Provide a variety of administrative assistance to supervisory and administrative Wisconsin Elections Commission staff.

1. Process out of state voter cancellations; enter cancellations in the WisVote system.

AMERICAN OVERSIGHT

2. Process incompetency findings data received from the Circuit Courts.

3. Check the WisVote system to determine if the name matches the same name in the notice. If the name does not appear in WisVote, then enter information in the Incompetent database.

4. Log and track all complaints received by the Wisconsin Elections Commission and prepare complaint related documents and distribute copies to enforcement staff. Record updates and disposition of complaints.

10%

E. Coordination and preparation for the Wisconsin Elections Commission Meetings

1. Assume full responsibility for administrative and financial preparations for public meetings of the Wisconsin Elections Commission.

2. Coordinate with in-house staff for completion of the agenda and meeting memos in a timely manner.

3. Ensure the Commission material booklets are photocopied and distributed to the Commission members, appropriate staff, subscribers, and other interested persons in a timely manner.

4. Manage travel and financial arrangements for Commission members and staff. Process any necessary travel reimbursements through STAR PeopleSoft.

Required Knowledge, Skills and Abilities

1. Knowledge of general office practices and procedures.

2. Knowledge of general accounting methods.

3. Knowledge of data and word processing concepts.

4. Knowledge of, and skills in, Microsoft Office Suite.

5. Computer skills include the ability to utilize STAR PeopleSoft and excel spreadsheets.

6. Ability to establish and maintain effective working relationships with the public and coworkers.

7. Ability to understand and follow written and oral instructions.

8. Ability to work independently, setting priorities to meet the demands of the position and work deadlines.

AMERICAN OVERSIGHT

Special Requirements

- Ability to work 7:45 a.m. – 4:30 p.m., Monday-Friday, with occasional extended hours during peak times.

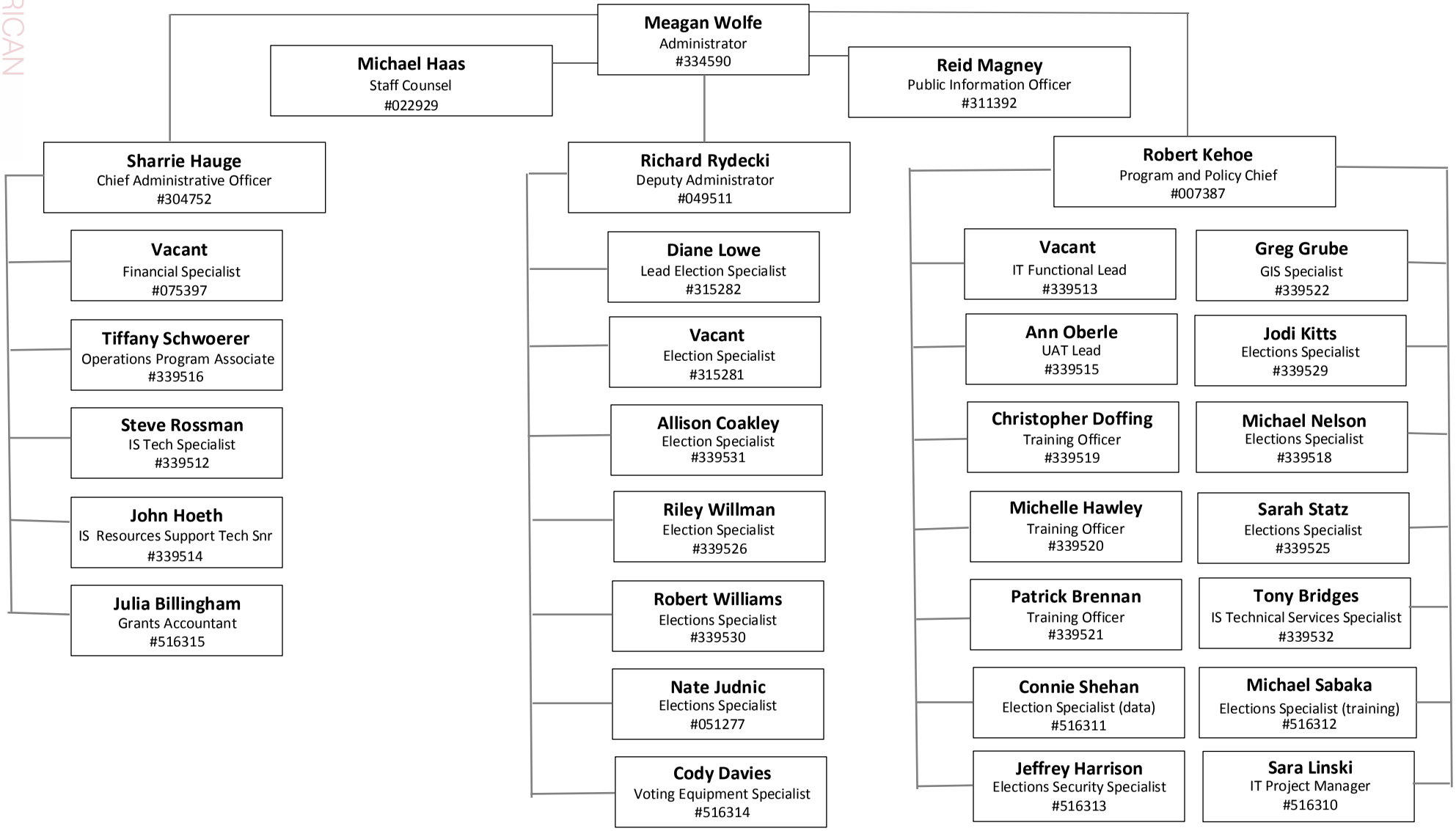
- Ability to lift moderately heavy boxes, up to 20 pounds, with or without an accommodation.

Must comply with the agency's nonpartisan requirements.

H:\seb admin records\personnel\position descriptions\financial specialist 2.4.19

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339525		510

4. NAME OF EMPLOYEE
STATZ, SARAH

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Election Specialist, Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
WisVote Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Jodi Kitts, Election Specialist, Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program & Policy Director

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
7/1/2018

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:
See attached.

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	See attached.

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 2/20/19

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee Sarah Statz Date 3/20/2019

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

"NEW"

Wisconsin Elections Commission

Position Description
Elections Specialist, Senior
#339525

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

Under the general supervision of the Director of Technology and Training, this position is a project-leading Elections Specialist and a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position will maintain a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position participates in developing a protocol to be used by the WisVote team for delivering education, training, and technical assistance to local election officials, and will conduct workshops, seminars and classes for Users of WisVote. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Wisconsin.

35%

A. **Lead the coordination of activities of the agency's WisVote working teams including polling place regulation, voter records, and election result reconciliation.**

1. Review and resolve election data issues identified through data reconciliation processes and develop long term solutions to reconciliation issues.

2. Consult with the IT staff for identifying and resolving technical issues in automated data collection processes.

3. Develop and maintain queries to identify data discrepancies and run queries for identifying and retrieving requested information.

4. Provide technical assistance regarding election data collection best practices for local election officials.

5. Work with the agency IT team and program staff to develop and execute internal audits on the agency election data collection and data management systems.

AMERICAN OVERSIGHT

6. Identify end-user training needs and coordinate with IT, program, and training staff to develop training plans and materials, and develop presentations accordingly.

7. Manage the process and make recommendation on how the Elections Division's elections data collection policies and business processes may be improved.

25%

B. **With limited supervision, plan and conduct training events for county clerks, municipal clerks, and election inspectors.**

1. Identify and assess the education and training needs of Local Election Officials for understanding the functions and management of WisVote. Keep program colleagues and agency management apprised of Local Election Officials training needs related to the use of WisVote.

2. In collaboration with Elections Specialist colleagues, develop and implement protocols for providing education, training and technical assistance to Local Officials regarding the effective use of WisVote.

3. Teach and train Local Election Officials on the proper and effective use of WisVote functionalities and management of WisVote data through in-person and other training methods.

4. Assist WisVote training staff to revise training manuals, communications, and other documents.

5. Maintain a high-level working knowledge of all election regulations in order to consult with and advise county, municipal, and school district officials concerning their election-related responsibilities through effective oral and written communications.

6. Coordinate and direct the preparation and distribution of communications to municipal election officials and assist in compiling and preparing various informational items to be included.

7. Coordinate and direct the development of the Calendar of Election and Campaign Events for distribution to all clerks, staff, and other interested persons.

8. Research and compile data for the preparation of election-related legislation.

25%

C. **Provide Technical Assistance to Users of the statewide voter registration system, WisVote and Monitor Quality Control of SVRS Tasks**

1. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

AMERICAN OVERSIGHT

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, voter records, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

15%

D. Plan and coordinate the election-related functions of the agency as they relate to federal, state, county, local and school district election officials.

1. Assist with carrying out WisVote initiatives and other activities included in the agency's Election Administration Plan and management goals.

2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in drafting fiscal analysis and legislative status reports.

4. Develop background information, testimony and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.

5. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public involving election administration program implementation.

6. Develop and maintain a high-level working knowledge of the Election Division's core business requirements related to both SVRS functionalities and Election Administration tasks and initiatives.

7. Carry out special projects and assignments as directed by supervisor and/or agency management.

AMERICAN OVERSIGHT

Required Knowledge, Skills, and Abilities

1. Knowledge of all election laws, administrative rules and Board policies, methods and procedures as they relate to elections administration.

2. Ability to speak and write effectively, including the ability to relate step-by-step instructions.

3. Ability to plan, organize, and prioritize work loads.

4. Ability to demonstrate initiative and independence in carrying out assigned tasks.

5. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

6. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, voting equipment vendors, legislators, other state agency officials, and the general public.

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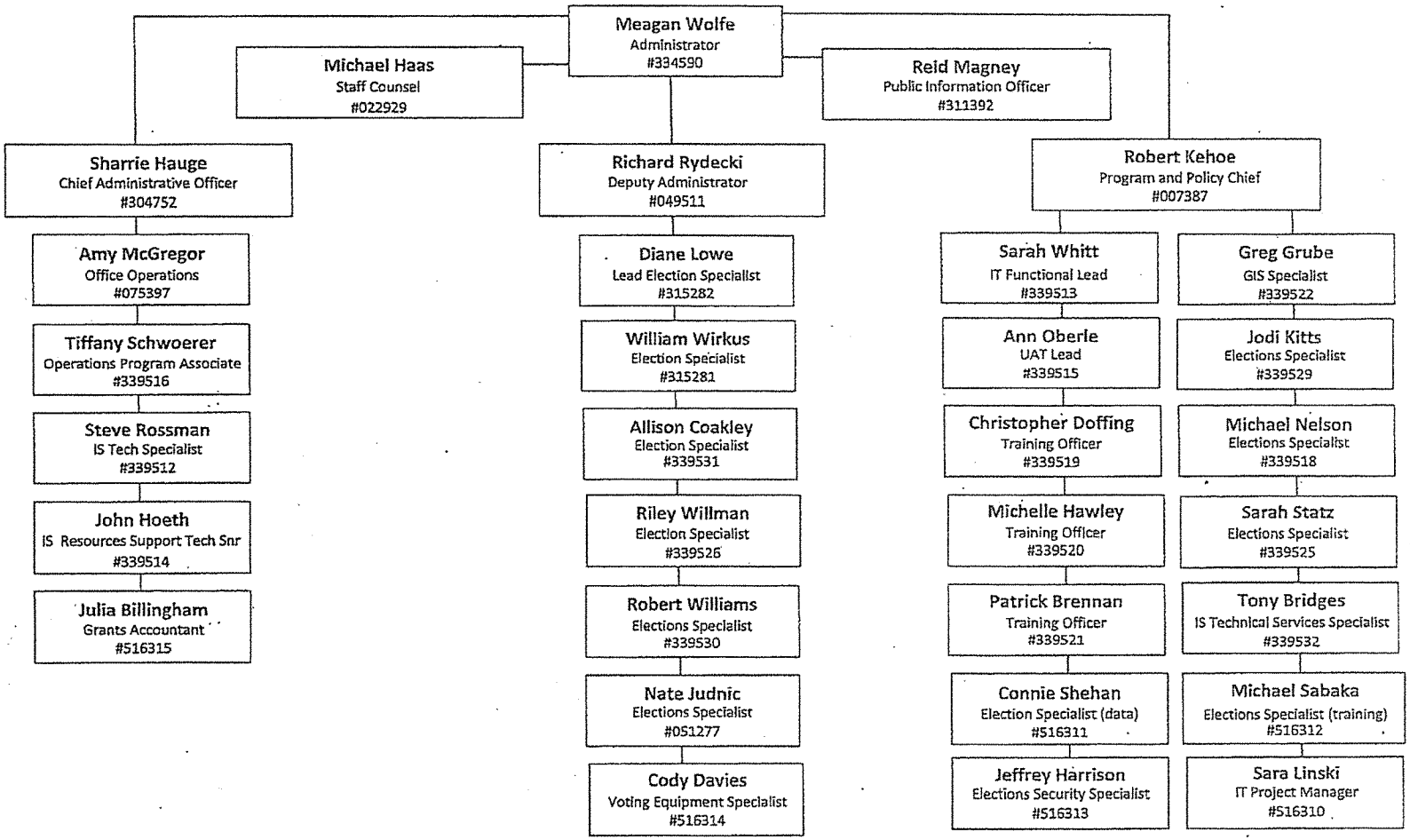
WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000789

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339525		510

4. NAME OF EMPLOYEE
STATZ, SARAH

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Election Specialist, Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT
n/a

9. AGENCY WORKING TITLE OF POSITION
WisVote Specialist

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
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11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
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7/1/2018

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(Continue on attached sheets)

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Signature of first-line supervisor _____ Date 2/20/19

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Signature of employee Sarah Statz Date 3/20/2019

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

"NEW"

Wisconsin Elections Commission

Position Description
Elections Specialist, Senior
#339525

Position Summary

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AMERICAN OVERSIGHT

6. Identify end-user training needs and coordinate with IT, program, and training staff to develop training plans and materials, and develop presentations accordingly.

7. Manage the process and make recommendation on how the Elections Division's elections data collection policies and business processes may be improved.

25%

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25%

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1. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

AMERICAN OVERSIGHT

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5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

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15%

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2. Analyze proposed legislation to determine impact on the administration and enforcement of election laws.

3. Assist in drafting fiscal analysis and legislative status reports.

4. Develop background information, testimony and other materials for management's response to policy proposals, identifying impacts and consequences of proposed legislation.

5. Draft responses to questions from the Governor's Office, the Legislature, other agencies, and the public involving election administration program implementation.

6. Develop and maintain a high-level working knowledge of the Election Division's core business requirements related to both SVRS functionalities and Election Administration tasks and initiatives.

7. Carry out special projects and assignments as directed by supervisor and/or agency management.

AMERICAN OVERSIGHT

Required Knowledge, Skills, and Abilities

1. Knowledge of all election laws, administrative rules and Board policies, methods and procedures as they relate to elections administration.

2. Ability to speak and write effectively, including the ability to relate step-by-step instructions.

3. Ability to plan, organize, and prioritize work loads.

4. Ability to demonstrate initiative and independence in carrying out assigned tasks.

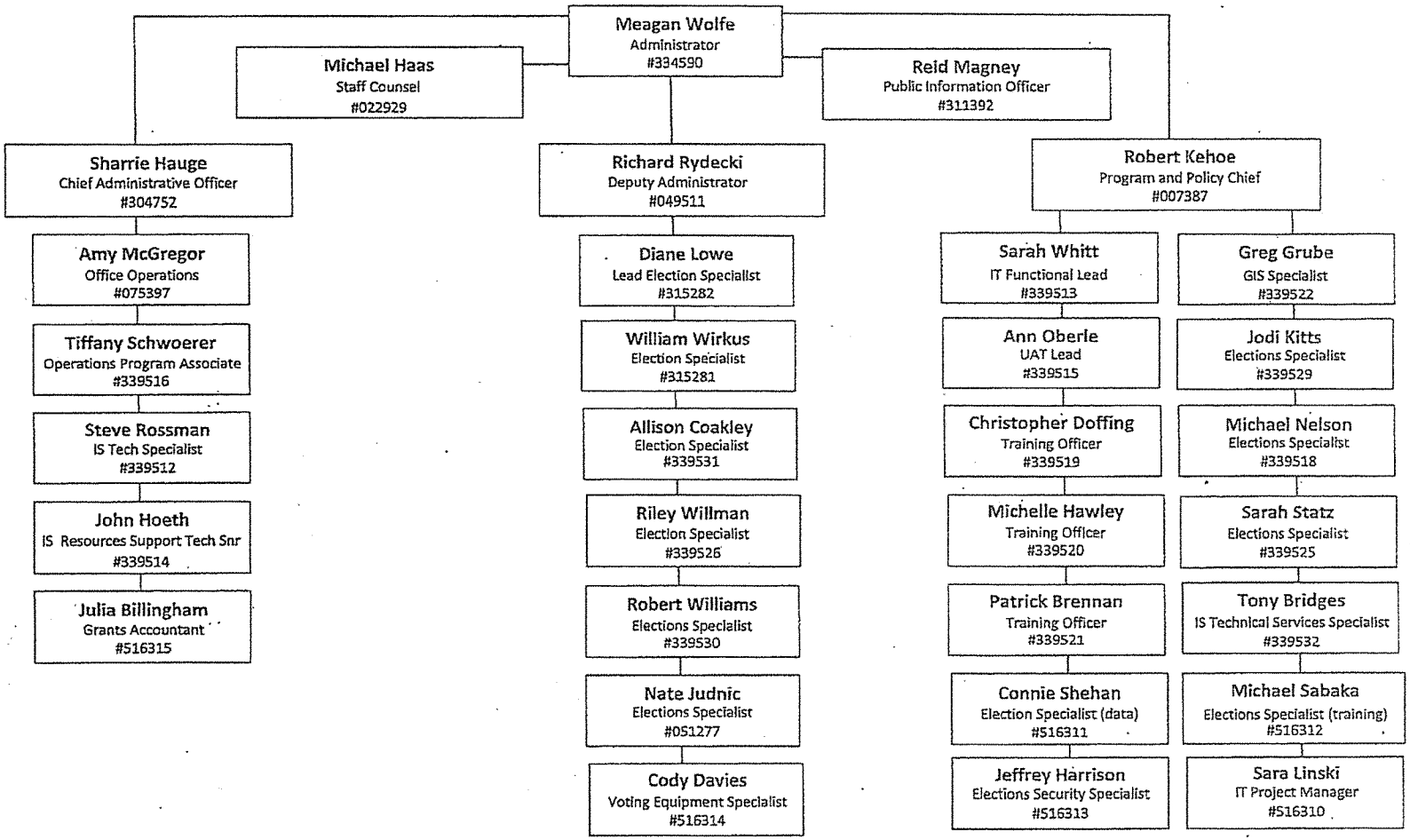
5. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

6. Ability to establish and maintain effective working relationships with fellow employees, administrative officials, election officials, voting equipment vendors, legislators, other state agency officials, and the general public.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000795

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
311392	ATTH210170	510

4. NAME OF EMPLOYEE
Riley Vetterkind

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Communications Specialist- Senior

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Reid Magney, Communications Specialist- Senior

9. AGENCY WORKING TITLE OF POSITION
Public Information Officer, Internet, and Communications Manager

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

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(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION

Communications Specialist Senior

Agency Working Title: Public Information Officer, Internet, and Communications Manager

(Position #311392)

POSITION SUMMARY

Under the general supervision of the Wisconsin Elections Commission (WEC) Administrator, this position promotes and advances the agency's mission by developing and directing communications about politically sensitive programs and policies to ensure consistent, understandable and trustworthy messaging about program and policy initiatives, issues and concerns. This position is responsible for developing and managing the agency's public information strategies and internet communication programs. The primary audiences for these communications are the public, local elections partners, elected officials, constituents and media.

This position develops, coordinates, and expedites the agency's public education and information programs. To do so, this position requires substantial coordination with program staff to acquire a working knowledge of agency programs in order to know what is worthy of public education, and how to best expedite information to the targeted audience. This position is the news media's primary contact and serves as the agency spokesperson when the Administrator is unavailable. This position demands attention to detail, the ability to multi-task and perform under tight deadlines, and sensitivity in dealing with confidential information. This position is expected to anticipate, plan and initiate recommendations without being told to do so.

This position is also responsible for the planning, development, and management of all agency websites, ensuring superior and consistent functionality, usability, and design. The position is a liaison between management, program staff and IT personnel. This position requires substantial knowledge of website development and usability principles, and specifically, Drupal, the agency's main website content management framework.

This position develops and manages presentations, coordinates media availabilities and public appearances by the agency's Administrator, as well as the Deputy Administrator and other staff. This position manages agency open records requests and responses. This position is also responsible for coordinating communications with the members of the Wisconsin Elections Commission and ensuring compliance with Open Meeting Law requirements.

DUTIES AND REPONSIBLITIES

A. Develop and administer the agency public information and public education programs, expedite and promote the agency mission and story – 35%

AMERICAN OVERSIGHT

1. Develop agency public information and education programs designed to promote the agency mission and story to state public officials including legislators, local public officials, members of the general public and media.
2. Develop and administer paid and earned media outreach campaigns on behalf of the agency. Review and approve the work of private advertising and media firms, including contract administration in consultation with agency procurement staff.
3. Brief the Administrator, Deputy Administrator and Agency Management team on all media activities including interviews and press conferences and make recommendations for implementation of communications priorities.
4. Serve as the agency's primary media contact and spokesperson, responding to requests for information and interviews, and persuading the media to publish or broadcast stories developed by the agency.
5. Prepare news releases, feature stories, op-eds, background briefing material, public service announcements, media kits and other information for effectively conveying the agency mission and story to targeted audiences.
6. Expedite and advance the agency mission with targeted audiences through a variety of outreach, educational and informational methods, mediums, approaches, techniques, and strategies (i.e. websites, social media, brochures, certificates, posters and newsletters), to advance the agency mission and story.
7. Coordinate responses to questions from the public, officeholders, local election officials, other agency stakeholders, and the news media. Set up media news conferences and availabilities for the agency's Administrator and the state's chief elections official.
8. Prepare talking points, speeches, testimony, and suggested responses to a variety of inquiries for the Administrator, Deputy Administrator, and staff.
9. Monitor traditional and nontraditional media for stories about the Commission and the programs it administers, disseminating them to the Commission and staff.
10. Provide training and education presentations to the public, voter advocacy groups, local officials and organizations.
11. Make presentations to the agency's Commission and agency client groups about substantive agency activities.

B. Oversee agency websites as electronic public education and information tools – 25%

1. Administer, maintain, and develop the main agency website (elections.wi.gov) in coordination with agency management and program staff.
2. Develop agency policy, procedures and guidelines for electronic publication and dissemination of the agency's electronic presence.
3. In coordination with management and program staff, plan, develop and manage the full range of the agency's program-specific websites to ensure best practices and consistent design/branding.

AMERICAN OVERSIGHT

4. Consult with and advise program staff regarding development of mobile applications and social media sites to ensure best practices through consistent messaging, design and branding.
5. Negotiate web hosting agreements and develop ways to achieve economies of scale.
6. Supervise contractors and consultants working on the main agency website.
7. Train agency staff to post routine information to website.
8. Serve as agency liaison in problem resolution for authors of web-based documents.

C. Manage Agency Public Records Requests – 15%

1. Serve as the agency primary contact for public records requests.
2. Review all public records requests and develop responses in consultation with staff counsel.
3. Work with agency staff to locate responsive records, and coordinate with staff counsel on legal review of records prior to release when necessary.
4. Maintain agency's log of public records requests to track the status of each request and ensure timely compliance.
5. Oversee administrative support staff on request fulfillment.

D. Provide support for agency internal business procedures and practices – 15%

1. Identify general and specific communications problems, challenges and opportunities, and recommend education priorities and objectives.
2. Consult with management and staff to plan and implement program communication strategies, including citizen involvement, public meetings and media events.
3. Coordinate and collaborate with program staff in the drafting and editing of correspondence, materials and documents as required.
4. In consultation with management, write a weekly email newsletter for staff to share news, accomplishments, and upcoming agency events.

E. Wisconsin Elections Commission Support and Related Duties – 10%

1. Communicate Wisconsin Elections Commission actions, decisions and rulings to the public and media.
2. Assist the Administrator in communicating with Commission Members, including keeping them informed about agency news coverage and events.
3. Scribe formal proceedings of the Wisconsin Elections Commission and prepare official minutes.
4. Manage the set-up for Commission meetings, including the sound system.
5. Prepare public meeting notices and other routine public notices.
6. Perform special projects and other duties as assigned.

AMERICAN OVERSIGHT

KNOWLEDGE AND SKILLS REQUIRED

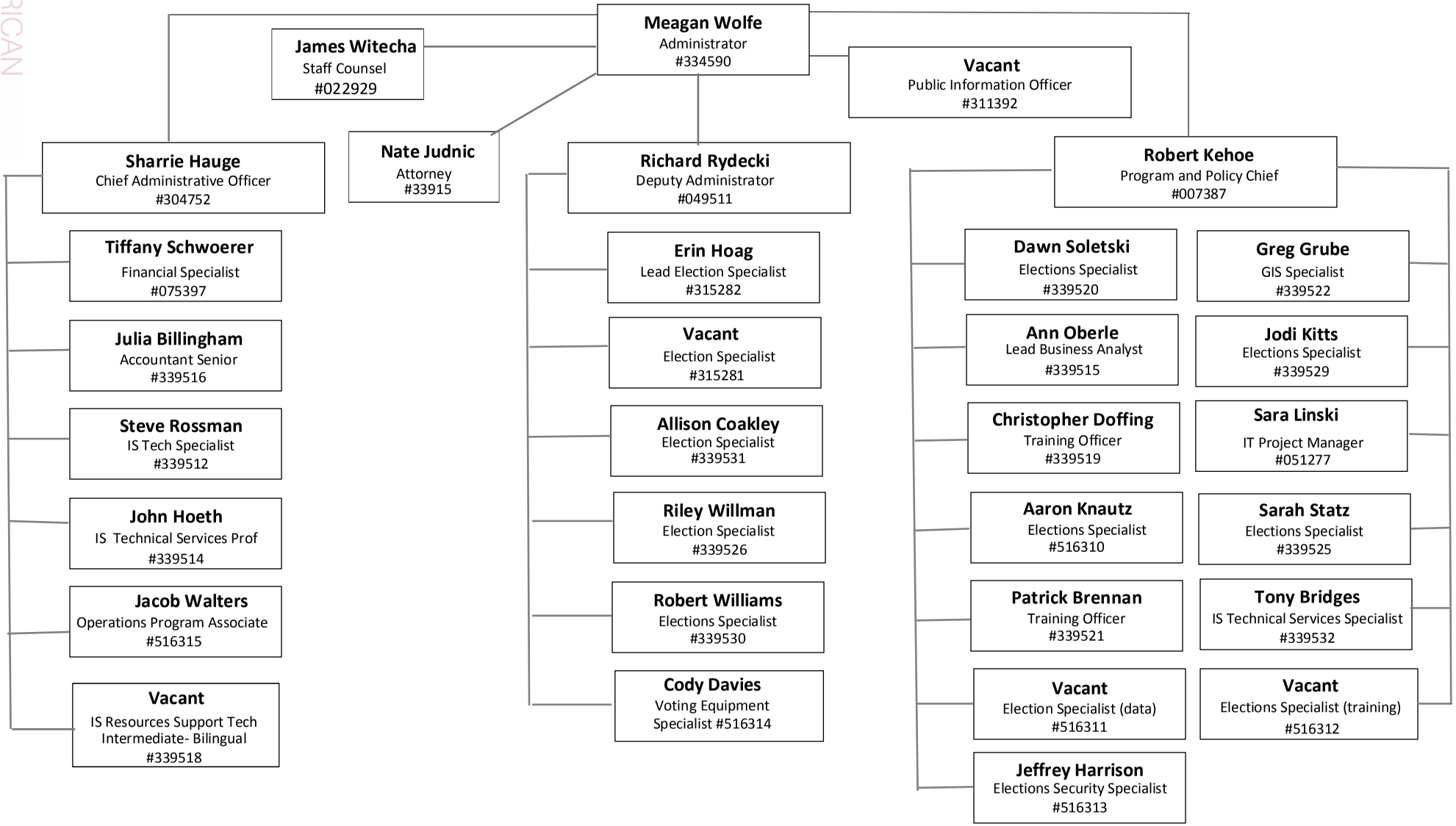
1. Ability to coordinate public events involving the media.
2. Ability to plan effective public relations programs and measure the results.
3. Considerable skill writing for electronic media, particularly websites and representing information on the web.
4. Knowledge of print or electronic reporter, public information officer, media specialist or similar work.
5. High level of skill in preparing and disseminating information and documents for public distribution including news releases, agency reports and similar documents; familiarity with presenting government information or public policy issues required.
6. Effective hands-on knowledge and use of advanced levels of computer programs and technologies, including managing and developing websites using the Drupal content management framework.
7. Considerable skill using and managing social media.
8. Strong verbal and written communication skills including writing for diverse audiences, the public and writing to the attribution of others.
9. Excellent peer-review and editing skills.
10. Significant skill in dealing with agency staff, the media and elected and government officials.
11. Strong interpersonal skills including the ability to work effectively with staff, elected and appointed officials, and in both leadership and team member roles.
12. Extensive knowledge of various methods and techniques for delivering effective public education and outreach informational programs.
13. Ability to establish and maintain effective working relationships with traditional and new media, agency staff, municipal and county clerks, public officials including legislators, and the public.
14. Ability to handle multiple tasks, meet deadlines and perform under pressure.
15. Knowledge of program planning, development and implementation.

Safety Requirements

- Follow all Department safety guidelines and standards in order to maintain safe working conditions.
- Report to supervisor all incidents, accidents and near misses that resulted or could have resulted in personal injury or personal injury of a co-worker.
- Wear appropriate personal protective equipment in designated areas.
- Attend appropriate safety training sessions, as directed.
- Offer safety and health suggestions to co-workers to reduce risk.

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
311392	ATTH210170	510

4. NAME OF EMPLOYEE
Riley Vetterkind

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Communications Specialist- Senior

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Reid Magney, Communications Specialist- Senior

9. AGENCY WORKING TITLE OF POSITION
Public Information Officer, Internet, and Communications Manager

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

See Attached

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
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— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	See Attached

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ◯ close ◯ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date _____

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager _____ Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION

Communications Specialist Senior

Agency Working Title: Public Information Officer, Internet, and Communications Manager

(Position #311392)

POSITION SUMMARY

Under the general supervision of the Wisconsin Elections Commission (WEC) Administrator, this position promotes and advances the agency's mission by developing and directing communications about politically sensitive programs and policies to ensure consistent, understandable and trustworthy messaging about program and policy initiatives, issues and concerns. This position is responsible for developing and managing the agency's public information strategies and internet communication programs. The primary audiences for these communications are the public, local elections partners, elected officials, constituents and media.

This position develops, coordinates, and expedites the agency's public education and information programs. To do so, this position requires substantial coordination with program staff to acquire a working knowledge of agency programs in order to know what is worthy of public education, and how to best expedite information to the targeted audience. This position is the news media's primary contact and serves as the agency spokesperson when the Administrator is unavailable. This position demands attention to detail, the ability to multi-task and perform under tight deadlines, and sensitivity in dealing with confidential information. This position is expected to anticipate, plan and initiate recommendations without being told to do so.

This position is also responsible for the planning, development, and management of all agency websites, ensuring superior and consistent functionality, usability, and design. The position is a liaison between management, program staff and IT personnel. This position requires substantial knowledge of website development and usability principles, and specifically, Drupal, the agency's main website content management framework.

This position develops and manages presentations, coordinates media availabilities and public appearances by the agency's Administrator, as well as the Deputy Administrator and other staff. This position manages agency open records requests and responses. This position is also responsible for coordinating communications with the members of the Wisconsin Elections Commission and ensuring compliance with Open Meeting Law requirements.

DUTIES AND REPONSIBLITIES

A. Develop and administer the agency public information and public education programs, expedite and promote the agency mission and story – 35%

AMERICAN OVERSIGHT

1. Develop agency public information and education programs designed to promote the agency mission and story to state public officials including legislators, local public officials, members of the general public and media.
2. Develop and administer paid and earned media outreach campaigns on behalf of the agency. Review and approve the work of private advertising and media firms, including contract administration in consultation with agency procurement staff.
3. Brief the Administrator, Deputy Administrator and Agency Management team on all media activities including interviews and press conferences and make recommendations for implementation of communications priorities.
4. Serve as the agency's primary media contact and spokesperson, responding to requests for information and interviews, and persuading the media to publish or broadcast stories developed by the agency.
5. Prepare news releases, feature stories, op-eds, background briefing material, public service announcements, media kits and other information for effectively conveying the agency mission and story to targeted audiences.
6. Expedite and advance the agency mission with targeted audiences through a variety of outreach, educational and informational methods, mediums, approaches, techniques, and strategies (i.e. websites, social media, brochures, certificates, posters and newsletters), to advance the agency mission and story.
7. Coordinate responses to questions from the public, officeholders, local election officials, other agency stakeholders, and the news media. Set up media news conferences and availabilities for the agency's Administrator and the state's chief elections official.
8. Prepare talking points, speeches, testimony, and suggested responses to a variety of inquiries for the Administrator, Deputy Administrator, and staff.
9. Monitor traditional and nontraditional media for stories about the Commission and the programs it administers, disseminating them to the Commission and staff.
10. Provide training and education presentations to the public, voter advocacy groups, local officials and organizations.
11. Make presentations to the agency's Commission and agency client groups about substantive agency activities.

B. Oversee agency websites as electronic public education and information tools – 25%

1. Administer, maintain, and develop the main agency website (elections.wi.gov) in coordination with agency management and program staff.
2. Develop agency policy, procedures and guidelines for electronic publication and dissemination of the agency's electronic presence.
3. In coordination with management and program staff, plan, develop and manage the full range of the agency's program-specific websites to ensure best practices and consistent design/branding.

AMERICAN OVERSIGHT

4. Consult with and advise program staff regarding development of mobile applications and social media sites to ensure best practices through consistent messaging, design and branding.
5. Negotiate web hosting agreements and develop ways to achieve economies of scale.
6. Supervise contractors and consultants working on the main agency website.
7. Train agency staff to post routine information to website.
8. Serve as agency liaison in problem resolution for authors of web-based documents.

C. Manage Agency Public Records Requests – 15%

1. Serve as the agency primary contact for public records requests.
2. Review all public records requests and develop responses in consultation with staff counsel.
3. Work with agency staff to locate responsive records, and coordinate with staff counsel on legal review of records prior to release when necessary.
4. Maintain agency's log of public records requests to track the status of each request and ensure timely compliance.
5. Oversee administrative support staff on request fulfillment.

D. Provide support for agency internal business procedures and practices – 15%

1. Identify general and specific communications problems, challenges and opportunities, and recommend education priorities and objectives.
2. Consult with management and staff to plan and implement program communication strategies, including citizen involvement, public meetings and media events.
3. Coordinate and collaborate with program staff in the drafting and editing of correspondence, materials and documents as required.
4. In consultation with management, write a weekly email newsletter for staff to share news, accomplishments, and upcoming agency events.

E. Wisconsin Elections Commission Support and Related Duties – 10%

1. Communicate Wisconsin Elections Commission actions, decisions and rulings to the public and media.
2. Assist the Administrator in communicating with Commission Members, including keeping them informed about agency news coverage and events.
3. Scribe formal proceedings of the Wisconsin Elections Commission and prepare official minutes.
4. Manage the set-up for Commission meetings, including the sound system.
5. Prepare public meeting notices and other routine public notices.
6. Perform special projects and other duties as assigned.

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KNOWLEDGE AND SKILLS REQUIRED

1. Ability to coordinate public events involving the media.
2. Ability to plan effective public relations programs and measure the results.
3. Considerable skill writing for electronic media, particularly websites and representing information on the web.
4. Knowledge of print or electronic reporter, public information officer, media specialist or similar work.
5. High level of skill in preparing and disseminating information and documents for public distribution including news releases, agency reports and similar documents; familiarity with presenting government information or public policy issues required.
6. Effective hands-on knowledge and use of advanced levels of computer programs and technologies, including managing and developing websites using the Drupal content management framework.
7. Considerable skill using and managing social media.
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Safety Requirements

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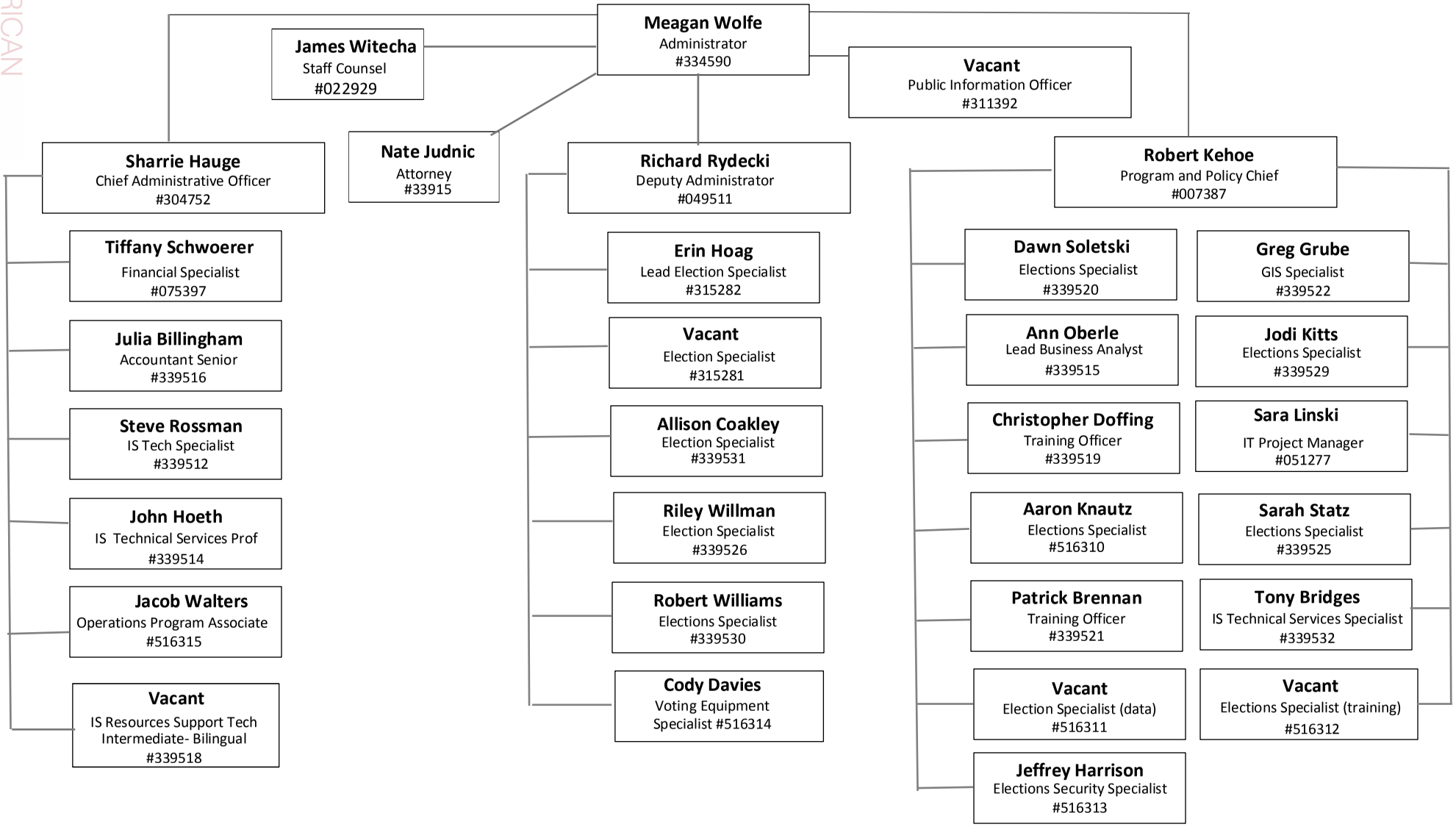
AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516312	ATTH210160	510

4. NAME OF EMPLOYEE
Jacob Walters

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 E Washington Ave 3rd floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist Entry

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Ahna Barreau, Elections Specialist Entry

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Aaron Knautz, Elections Specialist Entry
Dawn Soletski, Elections Specialist Entry

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Robert Kehoe, Program and Policy Chief

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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TIME %	GOALS AND WORKER ACTIVITIES
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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Elections Specialist - Entry
Elections Security Trainer
Position 516312

Position Summary

This is an Elections Specialist position focused on providing training regarding elections security to local election officials. This position is a primary contact for county and municipal clerks to provide customer service, training, and guidance in the secure administration of elections. It is responsible for applying elections security practices to relevant election laws, administrative rules, and Commission policies and working with staff to create and coordinate agency election security training initiatives. These initiatives incorporate a wide range of subject matter and focus on both physical security and cybersecurity aspects of the election process.

A basic and core requirement of the Commission is to provide customer service to over 1,800 municipal clerks, 72 county clerks and thousands of local election inspectors (poll workers) who conduct elections as well as to the State's 3.4 million active voters, to ensure adherence to, and compliance with election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes and voting statistics and trends.

This position participates in developing, updating and publishing web-based application tutorials to educate, train, and provide technical assistance to local election officials. Training topics will include the administration of elections and the use of WisVote, the statewide voter registration system. The position may also conduct in-person and online workshops, seminars and classes for users of agency software applications. It requires an ability to apply adult learning principles as well as a comfort level with making public presentations in a variety of settings. This position will also participate in carrying out an array of elections program initiatives and activities delineated in the agency's goals and management plans. This position will require occasional travel within Wisconsin from the agency headquarters in Madison.

Duties and Responsibilities

35%

A. Create and produce training webinars, tutorials and materials regarding security for agency software applications and election-related administrative procedures.

   1. Maintain knowledge of agency software applications and contribute to system updates and maintenance.

   2. Assist in determining the most effective training platform for specific subject matter.

   3. Produce and publish step-by-step instructions and cybersecurity tutorials for agency software application processes using electronic documents, online platforms, and online content management systems.

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AMERICAN OVERSIGHT

4. Develop, prepare and update training webinars, videos, manuals, training exercises and related training materials for agency software applications and election-related administrative procedures.

5. Review WisVote and election administration training programs and recommend changes, revisions, updates and modification to incorporate election security principles and best practices.

6. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

35%

B. With guidance from the Elections Supervisor and Senior Staff, participate in the provision of election security and election administration education, training, technical assistance and public outreach to local election officials and members of the public**.**

1. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to election security and how security impacts the administration responsibilities of these officials.

2. Coordinate the preparation and distribution of election-related materials such as memoranda, publications, and the calendar of election events and deadlines.

3. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations and solicit their feedback and input regarding the agency training program.

15%

C. Provide technical assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

AMERICAN OVERSIGHT

6. Track data quality and election set up in the WisVote system.

7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

15%

D. Participate in general elections administration activities and other agency duties as assigned, including the coordination of special agency projects.

1. Research and analyze legislative initiatives to assess impact on agency systems and procedures.

2. Act as team member or team lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

3. Draft fiscal analysis and legislative status reports.

4. Draft and present materials for the Agency's Commission members and Commission Meetings.

Required Knowledge, Skills, and Abilities

1. Effective communications skills utilizing various electronic media, written communications, and in-person presentations.

2. Knowledge of adult education principles and practices.

3. Skill creating electronic training for web-based systems or applications.

4. Ability to provide technical support for web-based applications.

5. Ability to travel as required.

Safety Requirements

- Follow all Department safety guidelines and standards in order to maintain safe working conditions.
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AMERICAN OVERSIGHT

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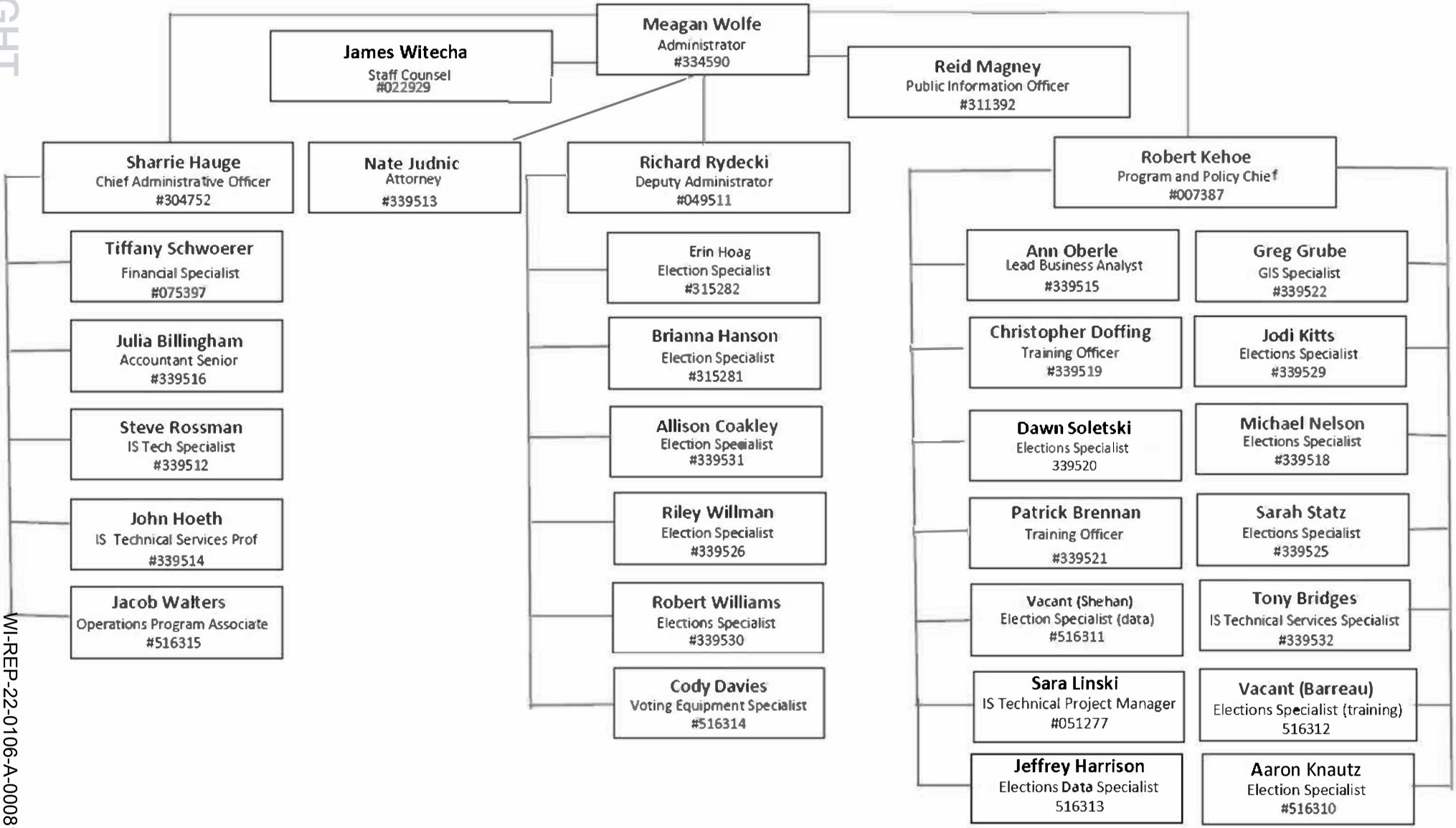
WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000813

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
516312	ATTH210160	510

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Dawn Soletski, Elections Specialist Entry

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Signature of employee _____ Date _____

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AMERICAN OVERSIGHT

WISCONSIN ELECTIONS COMMISSION
Elections Specialist - Entry
Elections Security Trainer
Position 516312

Position Summary

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Duties and Responsibilities

35%

A. Create and produce training webinars, tutorials and materials regarding security for agency software applications and election-related administrative procedures.

   1. Maintain knowledge of agency software applications and contribute to system updates and maintenance.

   2. Assist in determining the most effective training platform for specific subject matter.

   3. Produce and publish step-by-step instructions and cybersecurity tutorials for agency software application processes using electronic documents, online platforms, and online content management systems.

DRAFT

AMERICAN OVERSIGHT

4. Develop, prepare and update training webinars, videos, manuals, training exercises and related training materials for agency software applications and election-related administrative procedures.

5. Review WisVote and election administration training programs and recommend changes, revisions, updates and modification to incorporate election security principles and best practices.

6. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

35%

B. With guidance from the Elections Supervisor and Senior Staff, participate in the provision of election security and election administration education, training, technical assistance and public outreach to local election officials and members of the public**.**

1. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to election security and how security impacts the administration responsibilities of these officials.

2. Coordinate the preparation and distribution of election-related materials such as memoranda, publications, and the calendar of election events and deadlines.

3. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations and solicit their feedback and input regarding the agency training program.

15%

C. Provide technical assistance to users of the WisVote system.

1. Assess and identify the educational, training and technical assistance needs of local election officials.

2. Assist with developing a protocol for WisVote education, training and technical assistance to Local Election Officials.

3. Teach, train and advise WEC agency staff on the proper and effective use of WisVote.

4. Make recommendations for improving WisVote business processes and procedures.

5. Work with agency IT team to identify, test, and implement improvements and updates to the WisVote system.

AMERICAN OVERSIGHT

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7. Advise local election officials to facilitate the correction of data quality issues in the WisVote system.

8. Assist WisVote users in the development and use of customized reports.

15%

D. Participate in general elections administration activities and other agency duties as assigned, including the coordination of special agency projects.

1. Research and analyze legislative initiatives to assess impact on agency systems and procedures.

2. Act as team member or team lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

3. Draft fiscal analysis and legislative status reports.

4. Draft and present materials for the Agency's Commission members and Commission Meetings.

Required Knowledge, Skills, and Abilities

1. Effective communications skills utilizing various electronic media, written communications, and in-person presentations.

2. Knowledge of adult education principles and practices.

3. Skill creating electronic training for web-based systems or applications.

4. Ability to provide technical support for web-based applications.

5. Ability to travel as required.

Safety Requirements

- Follow all Department safety guidelines and standards in order to maintain safe working conditions.
- Report to supervisor all incidents, accidents and near misses that resulted or could have resulted in personal injury or personal injury of a co-worker.
- Wear appropriate personal protective equipment in designated areas.
- Attend appropriate safety training sessions, as directed.
- Offer safety and health suggestions to co-workers to reduce risk.

AMERICAN OVERSIGHT

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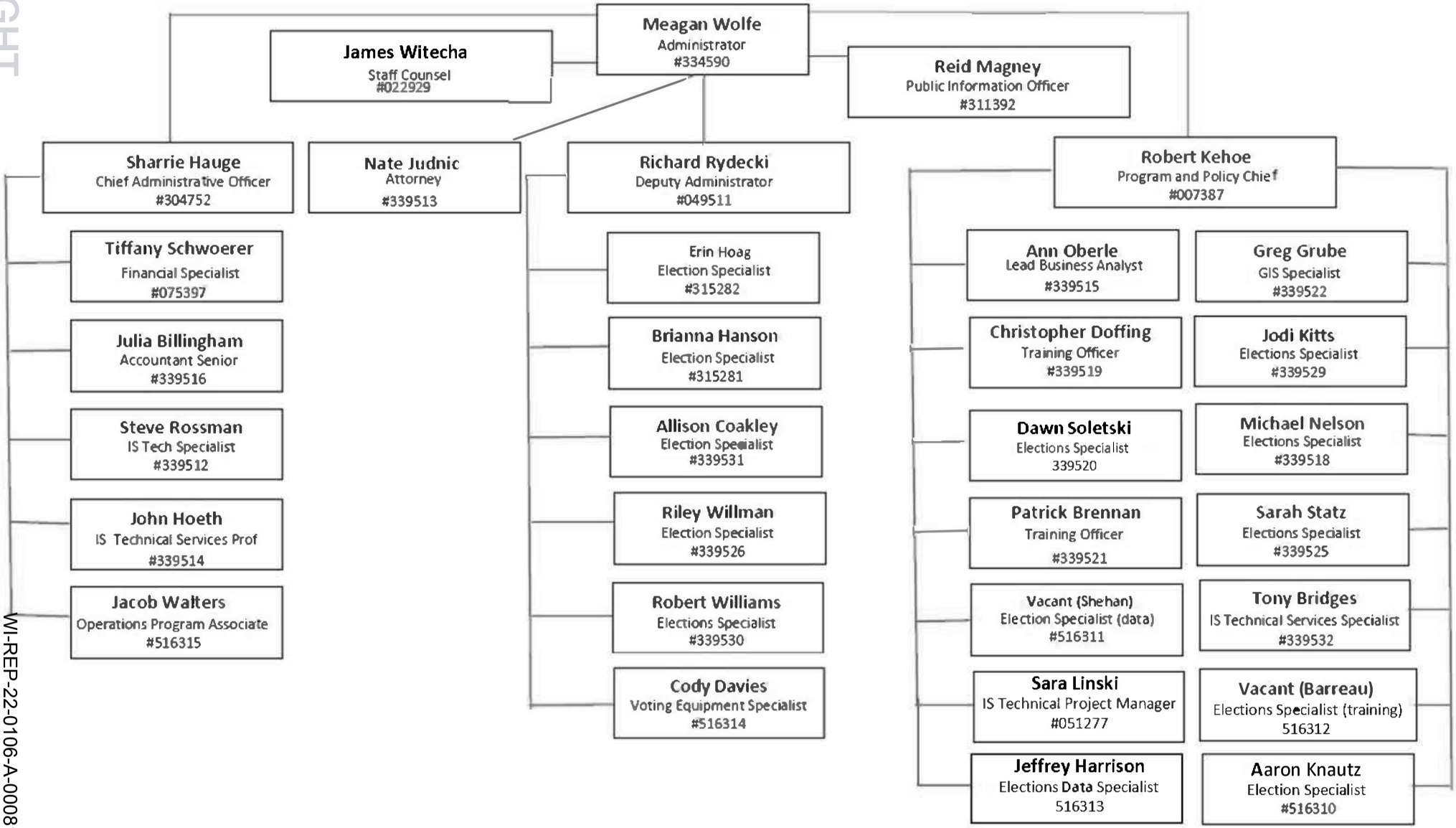
WISCONSIN ELECTIONS COMMISSION



WI-REP-22-0106-A-000815

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339530	20-009R	51000

4. NAME OF EMPLOYEE
Robert Williams

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Diane Lowe, Elections Specialist - Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
4/2017

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and Instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	SEE ATTACHED

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 9/14/2019

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 10-25-2019

18. Signature of Human Resources Manager _____ Date 10/23/19

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Senior

#339530 (Robert Williams)

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

Under general supervision of the Assistant Administrator, this position functions as part of the elections administration team, and is a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position will develop and maintain a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position is the co-project lead for the Elections Commission's voting systems approval and compliance processes. Prior to being used by municipalities in Wisconsin, any new or modified electronic voting system must be approved by the Commission, after consideration of staff testing and recommendations. Under general supervision, this position will process voting equipment approval applications and will design and implement approval standards and testing protocols for voting equipment. This position will draft reports summarizing the testing protocol, standards, and results, and will make written and verbal presentations to the Commission regarding approval or denial of voting equipment applications.

This position also regularly participates in conducting public outreach, education, training, technical assistance workshops, seminars, and certification classes for local election officials and members of the public. This position is also responsible for core election administration tasks, including, but not limited to: review of state and federal candidate ballot access documents, ballot design and review, and canvass of election results. Further, this position will participate in implementing other initiatives identified by agency management and the Commission.

The position also works in and provides services regarding Wisconsin's statewide voter registration system called WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

AMERICAN OVERSIGHT

Duties and Responsibilities

25%

A. Serve as a member of the agency's election administration team and maintain election-related functions of the agency as they relate to federal, state, county, local, and school district election officials.

1. Develop and maintain a high-level working knowledge of all elections laws governing responsibilities of state and local election officials and obligations of candidates.

2. With general supervision, communicate with legislators, candidates, political registrants, media representatives, other state agencies, representatives from state and national organizations, and the general public on all election-related subjects, including interpretation of laws, administrative rules, and Commission policies.

3. Prepare written communications in response to requests from agency customers.

4. Assist with examination of ballots submitted by county and municipal election officials to determine compliance with prescribed format, statutory criteria and agency certification. Inform county election officials of any discrepancies promptly and maintain a record of problems and contacts.

5. Ensure election results reported electronically by county boards of canvassers into the agency Canvass Reporting System (CRS) are in the required format.

6. Assist in preparing and ensuring accuracy of notices related to all state and federal elections and distribute the correct notice to each county election official within statutory deadlines.

7. Prepare and ensure accuracy of certificates of election for all winning state and federal candidates and all applicable certificates relating to presidential, congressional and referendum elections by statutory deadlines.

8. Work with and assist other agency staff with projects related to election administration, such as accessibility of polling places, voter outreach, and the statewide voter registration database and election management system.

9. Maintain information for all offices, contests, and candidates in the state's election management system. Create new offices and verify information as necessary.

10. Maintain term and incumbency information to ensure correct tracking of resignations, retirements, appointments, expiration dates and election dates for all state and federal offices.

25%

B. Serve as a project lead for the agency's program for approval of electronic voting systems and equipment in compliance with the Help America Vote Act of 2002

AMERICAN OVERSIGHT

Requirements, the Federal Voluntary Voting System Guidelines, and Wisconsin Statutes and Administrative Code.

1. Serve as contact person for voting equipment vendors and manufacturers. Review voting systems applications from equipment manufacturers for State approval to ensure proper reports, manuals and complete specifications for all hardware, firmware and software have been provided.

2. With general supervision, develop and supervise tests to determine if electronic voting equipment meets statutory requirements, direct the preparation of test ballots, and work directly with vendors and manufacturers during the approval process to ensure that ballots are prepared and printed correctly.

3. Arrange meeting of local election officials and the public for review and demonstration of electronic voting equipment as part of the approval process. Prepare materials for these meetings and make arrangements for necessary presentations.

4. Review and evaluate the results of voting equipment tests and make recommendations for approval of voting systems. Prepare reports and make presentations to agency management and the Commission regarding voting equipment applications for state approval.

5. Review software and hardware updates to existing voting systems and prepare recommendations regarding level of testing required and whether updates may be approved without additional testing.

6. Consult and collaborate with the United States Election Assistance Commission as necessary regarding federal certification programs.

7. Maintain an on-going relationship with certified vendors and manufacturers of voting systems to assist them in the preparation of ballots for actual elections.

8. Communicate with election equipment vendors and manufacturers, other state agencies, representatives from state and national organizations, and the general public on election-related subjects, including interpretation of laws, administrative rules, and Commission policies regarding voting systems.

9. Maintain agency records of the type of voting equipment used by each municipality. Provide information, and respond to inquiries concerning approved voting equipment and supplies.

10. Assist with the development of administrative rules, criteria; and standards for certification and use of voting equipment.

30%

C. With general supervision, participate in the provision of election administration education, training, technical assistance and public outreach to local election officials and members of the public.

1. Consult with and advise county, municipal, and school district officials, concerning their election-related responsibilities, through effective oral and written communications.

AMERICAN OVERSIGHT

2. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to the election administration responsibilities of these officials.

3. Participate in the design and development of training manuals by drafting new material on specified subjects and by reviewing, providing feedback, and editing drafts prepared by others. These manuals are used by county, municipal and election inspectors, and school board officials, as well as the public.

4. Assist in the development of new training tools and methods using various forms of technology.

5. Coordinate the preparation and distribution of election-related materials such as memoranda, publications, and the calendar of election events and deadlines.

6. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations, and solicit their feedback and input regarding election administration procedures and requirements.

7. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

10%

D. Assist in the processing and certification of nomination papers, recount petitions, recall petitions, petitions for ballot status, and official election results.

1. Assist in the development of ballot access checklists for federal, state and county candidates.

2. Develop and implement procedures for the agency's processing of nomination papers and election-related petitions.

3. Train staff members to determine the validity and sufficiency of ballot access documents following criteria established by law and agency procedures.

4. Determine ballot status for all federal and state candidates by evaluating documents and qualifications for placement on the ballot, and determine ballot order of names of candidates for all state and federal offices.

5. Prepare and ensure accuracy of all candidate and state referendum certifications and distribute proper certification to county election officials within the statutory deadlines for each election event.

5%

E. Technical Assistance and Quality Control of WisVote

1. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

AMERICAN OVERSIGHT

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

5%

F. Carry out special projects and assignments as directed by the Assistant Administrator.

1. Assist with implementing initiatives outlined in the agency's Election Administration Plan.

2. Act as team member or project lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

3. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

4. Assist in review and resolution of complaints filed against local election officials.

5. Draft responses to inquiries from the Governor's Office, the Legislature, other agencies and the public.

6. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Knowledge of federal and state election laws, administrative rules, Commission policies, and business processes as they relate to election administration.

2. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

AMERICAN OVERSIGHT

3. Ability to work in a team environment and establish and maintain effective working relationships with fellow employees, administrative officials, election officials, legislators, other state agency officials, and the general public.

4. Effective communication skills; ability to speak and write effectively.

5. Ability to plan, organize, and prioritize workloads.

6. Strong analytical and strategic planning skills.

7. Ability to demonstrate initiative and independence in carrying out assigned tasks.

8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
339530	20-009R	51000

4. NAME OF EMPLOYEE
Robert Williams

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Senior

7. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Diane Lowe, Elections Specialist - Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?
4/2017

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

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TIME %	GOALS AND WORKER ACTIVITIES
	SEE ATTACHED

(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date 9/14/2019

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date 10-25-2019

18. Signature of Human Resources Manager _____ Date 10/23/19

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Senior

#339530 (Robert Williams)

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

Under general supervision of the Assistant Administrator, this position functions as part of the elections administration team, and is a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position will develop and maintain a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position is the co-project lead for the Elections Commission's voting systems approval and compliance processes. Prior to being used by municipalities in Wisconsin, any new or modified electronic voting system must be approved by the Commission, after consideration of staff testing and recommendations. Under general supervision, this position will process voting equipment approval applications and will design and implement approval standards and testing protocols for voting equipment. This position will draft reports summarizing the testing protocol, standards, and results, and will make written and verbal presentations to the Commission regarding approval or denial of voting equipment applications.

This position also regularly participates in conducting public outreach, education, training, technical assistance workshops, seminars, and certification classes for local election officials and members of the public. This position is also responsible for core election administration tasks, including, but not limited to: review of state and federal candidate ballot access documents, ballot design and review, and canvass of election results. Further, this position will participate in implementing other initiatives identified by agency management and the Commission.

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This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

AMERICAN OVERSIGHT

Duties and Responsibilities

25%

A. Serve as a member of the agency's election administration team and maintain election-related functions of the agency as they relate to federal, state, county, local, and school district election officials.

1. Develop and maintain a high-level working knowledge of all elections laws governing responsibilities of state and local election officials and obligations of candidates.

2. With general supervision, communicate with legislators, candidates, political registrants, media representatives, other state agencies, representatives from state and national organizations, and the general public on all election-related subjects, including interpretation of laws, administrative rules, and Commission policies.

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7. Prepare and ensure accuracy of certificates of election for all winning state and federal candidates and all applicable certificates relating to presidential, congressional and referendum elections by statutory deadlines.

8. Work with and assist other agency staff with projects related to election administration, such as accessibility of polling places, voter outreach, and the statewide voter registration database and election management system.

9. Maintain information for all offices, contests, and candidates in the state's election management system. Create new offices and verify information as necessary.

10. Maintain term and incumbency information to ensure correct tracking of resignations, retirements, appointments, expiration dates and election dates for all state and federal offices.

25%

B. Serve as a project lead for the agency's program for approval of electronic voting systems and equipment in compliance with the Help America Vote Act of 2002

AMERICAN OVERSIGHT

Requirements, the Federal Voluntary Voting System Guidelines, and Wisconsin Statutes and Administrative Code.

1. Serve as contact person for voting equipment vendors and manufacturers. Review voting systems applications from equipment manufacturers for State approval to ensure proper reports, manuals and complete specifications for all hardware, firmware and software have been provided.

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4. Review and evaluate the results of voting equipment tests and make recommendations for approval of voting systems. Prepare reports and make presentations to agency management and the Commission regarding voting equipment applications for state approval.

5. Review software and hardware updates to existing voting systems and prepare recommendations regarding level of testing required and whether updates may be approved without additional testing.

6. Consult and collaborate with the United States Election Assistance Commission as necessary regarding federal certification programs.

7. Maintain an on-going relationship with certified vendors and manufacturers of voting systems to assist them in the preparation of ballots for actual elections.

8. Communicate with election equipment vendors and manufacturers, other state agencies, representatives from state and national organizations, and the general public on election-related subjects, including interpretation of laws, administrative rules, and Commission policies regarding voting systems.

9. Maintain agency records of the type of voting equipment used by each municipality. Provide information, and respond to inquiries concerning approved voting equipment and supplies.

10. Assist with the development of administrative rules, criteria; and standards for certification and use of voting equipment.

30%

C. With general supervision, participate in the provision of election administration education, training, technical assistance and public outreach to local election officials and members of the public.

1. Consult with and advise county, municipal, and school district officials, concerning their election-related responsibilities, through effective oral and written communications.

AMERICAN OVERSIGHT

2. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to the election administration responsibilities of these officials.

3. Participate in the design and development of training manuals by drafting new material on specified subjects and by reviewing, providing feedback, and editing drafts prepared by others. These manuals are used by county, municipal and election inspectors, and school board officials, as well as the public.

4. Assist in the development of new training tools and methods using various forms of technology.

5. Coordinate the preparation and distribution of election-related materials such as memoranda, publications, and the calendar of election events and deadlines.

6. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations, and solicit their feedback and input regarding election administration procedures and requirements.

7. Assist with the development of voter education public outreach materials in a variety of formats including print materials and online content.

10%

D. Assist in the processing and certification of nomination papers, recount petitions, recall petitions, petitions for ballot status, and official election results.

1. Assist in the development of ballot access checklists for federal, state and county candidates.

2. Develop and implement procedures for the agency's processing of nomination papers and election-related petitions.

3. Train staff members to determine the validity and sufficiency of ballot access documents following criteria established by law and agency procedures.

4. Determine ballot status for all federal and state candidates by evaluating documents and qualifications for placement on the ballot, and determine ballot order of names of candidates for all state and federal offices.

5. Prepare and ensure accuracy of all candidate and state referendum certifications and distribute proper certification to county election officials within the statutory deadlines for each election event.

5%

E. Technical Assistance and Quality Control of WisVote

1. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

AMERICAN OVERSIGHT

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

5%

F. Carry out special projects and assignments as directed by the Assistant Administrator.

1. Assist with implementing initiatives outlined in the agency's Election Administration Plan.

2. Act as team member or project lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

3. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

4. Assist in review and resolution of complaints filed against local election officials.

5. Draft responses to inquiries from the Governor's Office, the Legislature, other agencies and the public.

6. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Knowledge of federal and state election laws, administrative rules, Commission policies, and business processes as they relate to election administration.

2. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

AMERICAN OVERSIGHT

3. Ability to work in a team environment and establish and maintain effective working relationships with fellow employees, administrative officials, election officials, legislators, other state agency officials, and the general public.

4. Effective communication skills; ability to speak and write effectively.

5. Ability to plan, organize, and prioritize workloads.

6. Strong analytical and strategic planning skills.

7. Ability to demonstrate initiative and independence in carrying out assigned tasks.

8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.

- Must comply with nonpartisan requirements during employment.

- Ability to travel statewide as required.

AMERICAN OVERSIGHT

3 **POSITION DESCRIPTION**

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department Administration/Division of Personnel Management

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and

1. Position No	2. Cert / Reclass Request No.	3. Agency No.
339526	20-008R	51000

4. NAME OF EMPLOYEE
Riley Willman

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Senior

. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT

ES 9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIE
Diane Lowe, Elections Specialist - Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☒
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

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— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	SEE ATTACHED

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is (c) close (l) limited (g) general

b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor Richard Rydecki Date 8/13/2019

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee Date 10/25/2019

I. Signature of Human Resources Manager Date 10/23/19 1E

DISTRIBUTE COPIES OF SIGNED FORM TO:
P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY DI ☒

AMERICAN OVERSIGHT

Wisconsin Elections Commission

Elections Specialist – Senior

#339526

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

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This position regularly leads agency efforts in conducting public outreach, education, training, technical assistance workshops, seminars, and certification classes for local election officials and members of the public. This position is also responsible for core election administration tasks, including, but not limited to: review of state and federal candidate ballot access documents, ballot design and review, and canvass of election results. Further, this position will participate in implementing other initiatives identified by agency management and the Commission.

The position also works in and provides services regarding Wisconsin's statewide voter registration system called WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

AMERICAN OVERSIGHT

Duties and Responsibilities

30%

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5. Ensure election results reported electronically by county boards of canvassers into the agency Canvass Reporting System (CRS) are in the required format.

6. Assist in preparing and ensuring accuracy of notices related to all state and federal elections and distribute the correct notice to each county election official within statutory deadlines.

7. Prepare and ensure accuracy of certificates of election for all winning state and federal candidates and all applicable certificates relating to presidential, congressional and referendum elections by statutory deadlines.

8. Work with and assist other agency staff with projects related to election administration, such as voting equipment approval, accessibility of polling places, voter outreach, and the statewide voter registration database and election management system.

9. Maintain information for all offices, contests, and candidates in the state's election management system. Create new offices and verify information as necessary.

10. Maintain term and incumbency information to ensure correct tracking of resignations, retirements, appointments, expiration dates and election dates for all state and federal offices.

AMERICAN OVERSIGHT

30%

B. With general supervision from the Assistant Administrator, serve as a project lead in the provision of election administration education, training, technical assistance to local election officials and members of the public.

1. Serve as a team lead in the development of new training tools and methods using various formats and forms of technology.

2. Consult with and advise county, municipal, and school district officials, concerning their election-related responsibilities, through effective oral and written communications.

3. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to the election administration responsibilities of these officials.

4. Participate in the design and development of training manuals by drafting new material on specified subjects and by reviewing, providing feedback, and editing drafts prepared by others. These manuals are used by county, municipal and election inspectors, and school board officials, as well as the public.

5. Coordinate the preparation and distribution of election-related materials such as memoranda, publications, and the calendar of election events and deadlines.

6. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations, and solicit their feedback and input regarding election administration procedures and requirements.

15%

C. With general supervision from the Assistant Administrator, lead agency voter education efforts to members of the public.

1. Lead agency efforts to design and develop education, training and technical assistance materials, including brochures, videos, etc. for voters.

2. Develop voter education public outreach materials for use with social media, website and other online content.

3. Monitor, track the status of, and assess the effectiveness of voter education, training, technical assistance and outreach services.

4. Regularly update and inform program and agency management and colleagues on what the areas of greatest need and priorities are for generating voter education, training, technical assistance and outreach services.

AMERICAN OVERSIGHT

5. Based on feedback from voters, Local Election Officials and from organizations and agencies that advance voter rights, regularly make recommendations for improvement in terms of voter education, training, technical assistance and outreach service.

10%

D. Technical Assistance and Quality Control of WisVote

1. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

10%

E. Assist in the processing and certification of nomination papers, recount petitions, recall petitions, petitions for ballot status, and official election results.

1. Assist in the development of ballot access checklists for federal, state and county candidates.

2. Develop and implement procedures for the agency's processing of nomination papers and election-related petitions.

3. Train staff members to determine the validity and sufficiency of ballot access documents following criteria established by law and agency procedures.

4. Determine ballot status for all federal and state candidates by evaluating documents and qualifications for placement on the ballot, and determine ballot order of names of candidates for all state and federal offices.

AMERICAN OVERSIGHT

5. Prepare and ensure accuracy of all candidate and state referendum certifications and distribute proper certification to county election officials within the statutory deadlines for each election event.

5%

F. Carry out special projects and assignments as directed by the Assistant Administrator.

1. Assist with implementing initiatives outlined in the agency's Election Administration Plan.

2. Act as team member or project lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

3. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

4. Assist in review and resolution of complaints filed against local election officials.

5. Draft responses to inquiries from the Governor's Office, the Legislature, other agencies and the public.

6. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Knowledge of federal and state election laws, administrative rules, Commission policies, and business processes as they relate to election administration.

2. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

3. Ability to work in a team environment and establish and maintain effective working relationships with fellow employees, administrative officials, election officials, legislators, other state agency officials, and the general public.

4. Effective communication skills; ability to speak and write effectively.

5. Ability to plan, organize, and prioritize workloads.

6. Strong analytical and strategic planning skills.

7. Ability to demonstrate initiative and independence in carrying out assigned tasks.

8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

AMERICAN OVERSIGHT

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.
- Must comply with nonpartisan requirements during employment.
- Ability to travel statewide as required.

AMERICAN OVERSIGHT

3 **POSITION DESCRIPTION**

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department Administration/Division of Personnel M anagemt

1. Position No	2. Cert / Reclass Request No.	3. Agency No.
339526	20-008R	51000

4. NAME OF EMPLOYEE
Riley Willman

5. DEPARTMENT, UNIT, WORK ADDRESS
Wisconsin Elections Commission
212 East Washington Avenue, 3rd Floor
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Elections Specialist - Senior

. CLASS TITLE OPTION *(to be filled out by Human Resources Office)*

8. NAME AND CLASS OF FORMER INCUMBENT 7

ES 9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIE
Diane Lowe, Elections Specialist - Senior

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Richard Rydecki, Deputy Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☒
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

SEE ATTACHED

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES (Continue on attached sheets)
	SEE ATTACHED

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is (c) close (l) limited (g) general

b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.

(Please initial and date attachments.)

Signature of first-line supervisor Richard Rydecki Date 8/13/2019

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.

(Please initial and date attachments.)

Signature of employee Date 10/25/2019

I. Signature of Human Resources Manager Date 10/23/19 1E

DISTRIBUTE COPIES OF SIGNED FORM TO:

P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY DI ☒

AMERICAN OVERSIGHT

Wisconsin Elections Commission
Elections Specialist – Senior
#339526

Position Summary

The Wisconsin Elections Commission is charged under Wisconsin Statutes to administer and enforce Wisconsin's elections laws. A core mission of the Commission is to ensure ongoing and quality education, training, outreach, technical assistance, and advice to municipal clerks, county clerks, and local election inspectors (poll workers) that conduct elections as well as to ensure adherence to, and compliance with Wisconsin election laws and required procedures. Another core function of the Commission is to provide current and accurate information to the public as well as various governmental and other organizations about the State's electoral processes, voting statistics, and trends.

Under general supervision of the Assistant Administrator, this position functions as part of the elections administration team, and is a resource for county, municipal, and school district clerks and administrators, as well as candidates, voters and the general public. This position will develop and maintain a high-level working knowledge of federal and state election laws, administrative rules, Commission policies and business processes in order to effectively interpret and apply these requirements to all types of elections held throughout the state and provide expert opinions and advice on election administration issues.

This position regularly leads agency efforts in conducting public outreach, education, training, technical assistance workshops, seminars, and certification classes for local election officials and members of the public. This position is also responsible for core election administration tasks, including, but not limited to: review of state and federal candidate ballot access documents, ballot design and review, and canvass of election results. Further, this position will participate in implementing other initiatives identified by agency management and the Commission.

The position also works in and provides services regarding Wisconsin's statewide voter registration system called WisVote, which is a database of voter and election information as well as a primary tool for administration of elections in the state. This position is a contact for county and municipal clerks to provide customer service, training, and guidance in the administration of elections using WisVote.

This position requires compliance with the agency's timekeeping system to ensure that tasks performed qualify under federal funding guidelines or that work representing State initiatives is tracked contemporaneously and is properly accounted for using State funds.

AMERICAN OVERSIGHT

Duties and Responsibilities

30%

A. Serve as a member of the agency's election administration team and maintain election-related functions of the agency as they relate to federal, state, county, local, and school district election officials.

1. Develop and maintain a high-level working knowledge of all elections laws governing responsibilities of state and local election officials and obligations of candidates.

2. With general supervision, communicate with legislators, candidates, political registrants, media representatives, other state agencies, representatives from state and national organizations, and the general public on all election-related subjects, including interpretation of laws, administrative rules, and Commission policies.

3. Prepare written communications in response to requests from agency customers.

4. Assist with examination of ballots submitted by county and municipal election officials to determine compliance with prescribed format, statutory criteria and agency certification. Inform county election officials of any discrepancies promptly and maintain a record of problems and contacts.

5. Ensure election results reported electronically by county boards of canvassers into the agency Canvass Reporting System (CRS) are in the required format.

6. Assist in preparing and ensuring accuracy of notices related to all state and federal elections and distribute the correct notice to each county election official within statutory deadlines.

7. Prepare and ensure accuracy of certificates of election for all winning state and federal candidates and all applicable certificates relating to presidential, congressional and referendum elections by statutory deadlines.

8. Work with and assist other agency staff with projects related to election administration, such as voting equipment approval, accessibility of polling places, voter outreach, and the statewide voter registration database and election management system.

9. Maintain information for all offices, contests, and candidates in the state's election management system. Create new offices and verify information as necessary.

10. Maintain term and incumbency information to ensure correct tracking of resignations, retirements, appointments, expiration dates and election dates for all state and federal offices.

AMERICAN OVERSIGHT

30%

B. With general supervision from the Assistant Administrator, serve as a project lead in the provision of election administration education, training, technical assistance to local election officials and members of the public.

1. Serve as a team lead in the development of new training tools and methods using various formats and forms of technology.

2. Consult with and advise county, municipal, and school district officials, concerning their election-related responsibilities, through effective oral and written communications.

3. Conduct in-person, telephonic, and online presentations to county and municipal clerks and election inspectors concerning proper procedures related to the election administration responsibilities of these officials.

4. Participate in the design and development of training manuals by drafting new material on specified subjects and by reviewing, providing feedback, and editing drafts prepared by others. These manuals are used by county, municipal and election inspectors, and school board officials, as well as the public.

5. Coordinate the preparation and distribution of election-related materials such as memoranda, publications, and the calendar of election events and deadlines.

6. Develop and maintain effective working relationships with local election officials and representatives of their respective professional associations, and solicit their feedback and input regarding election administration procedures and requirements.

15%

C. With general supervision from the Assistant Administrator, lead agency voter education efforts to members of the public.

1. Lead agency efforts to design and develop education, training and technical assistance materials, including brochures, videos, etc. for voters.

2. Develop voter education public outreach materials for use with social media, website and other online content.

3. Monitor, track the status of, and assess the effectiveness of voter education, training, technical assistance and outreach services.

4. Regularly update and inform program and agency management and colleagues on what the areas of greatest need and priorities are for generating voter education, training, technical assistance and outreach services.

AMERICAN OVERSIGHT

5. Based on feedback from voters, Local Election Officials and from organizations and agencies that advance voter rights, regularly make recommendations for improvement in terms of voter education, training, technical assistance and outreach service.

10%

D. Technical Assistance and Quality Control of WisVote

1. Provide technical assistance and customer support to local election officials regarding the effective use of WisVote functionalities and management of WisVote data.

2. Ensure accurate voter and election data by implementing and enforcing sound data quality assurance practices and procedures used by local election officials.

3. Advise and assist county and municipal election officials on the processing, submission and reconciliation of voter participation data.

4. Develop and use existing tools to track WisVote election setup, address maintenance using GIS technologies, the data entry of contests and candidates, absentee ballot issuance, post-election voter participation, and other election management tasks.

5. Assist WisVote users in the development and use of customized reports to meet office needs.

6. Assist WisVote technical staff with the testing of program upgrades and new functionalities.

7. Based on feedback from local election officials, make recommendations for improving WisVote business processes and procedures.

10%

E. Assist in the processing and certification of nomination papers, recount petitions, recall petitions, petitions for ballot status, and official election results.

1. Assist in the development of ballot access checklists for federal, state and county candidates.

2. Develop and implement procedures for the agency's processing of nomination papers and election-related petitions.

3. Train staff members to determine the validity and sufficiency of ballot access documents following criteria established by law and agency procedures.

4. Determine ballot status for all federal and state candidates by evaluating documents and qualifications for placement on the ballot, and determine ballot order of names of candidates for all state and federal offices.

AMERICAN OVERSIGHT

5. Prepare and ensure accuracy of all candidate and state referendum certifications and distribute proper certification to county election officials within the statutory deadlines for each election event.

5%

F. Carry out special projects and assignments as directed by the Assistant Administrator.

1. Assist with implementing initiatives outlined in the agency's Election Administration Plan.

2. Act as team member or project lead in conducting research related to election administration issues and trends and developing recommendations for consideration by the Commission or the Legislature.

3. Track, research, and analyze new legislative initiatives. Assist in preparation of fiscal analysis and testimony regarding policy and administrative impacts of proposed legislation. Make recommendations for remedial legislation on election laws.

4. Assist in review and resolution of complaints filed against local election officials.

5. Draft responses to inquiries from the Governor's Office, the Legislature, other agencies and the public.

6. Prepare written reports for agency management and Commission members and make oral presentations to the Commission as required.

Required Knowledge, Skills, and Abilities

1. Knowledge of federal and state election laws, administrative rules, Commission policies, and business processes as they relate to election administration.

2. Proficient in Microsoft Office Suite and web-based multi-tiered computer applications.

3. Ability to work in a team environment and establish and maintain effective working relationships with fellow employees, administrative officials, election officials, legislators, other state agency officials, and the general public.

4. Effective communication skills; ability to speak and write effectively.

5. Ability to plan, organize, and prioritize workloads.

6. Strong analytical and strategic planning skills.

7. Ability to demonstrate initiative and independence in carrying out assigned tasks.

8. Ability to coordinate and supervise the work of other technical, clerical, and professional staff on special projects.

AMERICAN OVERSIGHT

Special Requirements

- Must possess a valid Wisconsin driver license and meet the State's Risk Management Requirements or have the ability to obtain ones' own transportation.
- Must comply with nonpartisan requirements during employment.
- Ability to travel statewide as required.

AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
022929	ATTH200117	Elections

4. NAME OF EMPLOYEE
James Witecha

5. DEPARTMENT, UNIT, WORK ADDRESS
Elections
212 E. Washington Ave.
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Attorney

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Michael Haas, Attorney

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Nathan Judnic, Attorney

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

— GOALS: Describe the major achievements, outputs, or results. List them in descending order of importance.
— WORKER ACTIVITIES: Under each goal, list the worker activities performed to meet that goal.
— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date _____

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager Kristina Thole Digitally signed by Kristina Thole Date: 2020.09.10 12:56:43 -05'00' Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission
Attorney

Position Summary

Under the general policy direction of the Elections Commission Administrator, this position is responsible for providing legal advice on the application of elections laws to the Commission and its staff along with authoritative and timely advice and information to candidates, state and local election officials, state public officials and the general public. This position is responsible for preparing legal opinions, enforcement orders and administrative rules to implement agency policy and authority.

This position will also represent and support the agency in all relevant litigation matters, including preparing agency legal filings and acting as a liaison with agency outside counsel. All agency staff is also required by state law to meet standards for non-partisanship. It is imperative that the incumbent not place himself or herself in a position that would undermine officials' or the public's confidence in the Commission's integrity, fairness, and non-partisanship.

Duties and Responsibilities

30%

A. Provide legal advice to the Commission and staff, along with authoritative and timely advice and information on the application of laws, rules and regulations under the agency's jurisdiction to candidates, state and local election officials, state public officials and members of the public.

1. Research and prepare memoranda for consideration by the Commission, Administrator and staff on a wide variety of election administration legal issues.

2. Provide written response to correspondence and inquiries concerning election administration issues, regulations and requirements. This position also provides advice when called directly and offers guidance to other staff about how to respond to oral requests for advice.

3. Provide prompt written information on the application of laws, rules and regulations under the agency's jurisdiction to agency customers, the media and the public.

4. Prepare prompt written responses to correspondence referred by the Administrator.

5. Answer telephone inquiries referred by the agency staff including direct calls.

6. Provide advice and direction to agency staff on the application of laws, rules and regulations under the agency's jurisdiction. Work with key agency personnel to ensure effective agency management of legal issues.

AMERICAN OVERSIGHT

7. Prepare formal opinions issued by the Commission and informal opinions as directed by the Commission or Administrator.

8. Prepare and present information and training programs and materials for agency clientele and the public.

9. Assist in the development, review, and revision of forms, manuals, procedures and publications of the agency and administer the agency guidance document review and approval process.

20%

B. Administer the statutorily required process for complaints submitted to the Commission alleging violations of election law.

1. Develop and revise procedures for processing complaints filed with the agency and conducting research of complaints.

2. Research applicable law to prepare reports and recommendations to the Commission, and Administrator on alleged violations of laws, rules and regulations under the agency's jurisdiction.

3. Conduct research of complaints filed with the Commission following established agency procedures. This includes analyzing facts gathered during complaint process and prepare written report with legal analysis and recommendations.

4. Refer matters to the district attorney or attorney general for investigation and further action. At the direction of the Commission this position would prepare documents to make referrals to the appropriate district attorney for criminal prosecutions and disposition of violations in local races.

5. Review complaints challenging sufficiency of nomination papers, recall petitions and petitions for ballot access filed with the Commission. This includes evaluating petition problems identified by staff and complainants and conduct a review following agency procedures to ensure due process to all affected parties and timely resolution by the Commission and Administrator.

20%

C. Represent the agency in election related matters and provide litigation support on behalf of the agency.

1. Manage agency related litigation matters and provide analysis of legal actions involving the Commission.

2. Assist the office of the Attorney General when legal action has been brought against the Commission or staff.

3. Represent the agency in state and federal courts in cases where the Attorney General does not represent the Commission.

AMERICAN OVERSIGHT

4. Serve as liaison between agency counsel and the Commission and Administrator.

5. Draft pleadings and other legal filings in support of agency litigation matters.

6. Review and provide feedback for legal filings made on behalf of agency counsel.

7. Provide timely litigation updates to the Commission and Administrator.

8. Maintain agency litigation and enforcement files and records.

20%

D. Provide legislative support services for the agency.

1. Identify areas for remedial legislation and make recommendations to the Commission and Administrator for proposed legislative changes.

2. Review legislative drafts prepared by the Legislative Reference Bureau and assisting drafting proposed legislation.

3. Represent agency at legislative and agency hearings as assigned by Administrator.

4. Monitor and analyze legislation related to laws, rules and regulations under the agency's jurisdiction and other matters related to the agency.

5. Prepare assigned bill analyses and fiscal estimates.

6. Work and consult with Commission members, staff, legislators, legislative committees and others on proposed legislative changes with respect to subject areas of laws, rules and regulations under the agency's jurisdiction.

10%

E. Implement administrative rule making authority and responsibilities of agency.

1. Draft rules following procedures established by the Legislative Clearinghouse for the preparation and review of administrative rules.

2. Prepare new rules required by law or directed by the Commission.

3. Revise agency administrative code, maintaining consistency with statutory changes.

4. Carryout promulgation responsibilities to assure enactment of agency rules.

5. Identify areas for rule development.

6. Review rules with Commission, Administrator, and staff.

AMERICAN OVERSIGHT

Special Notes:

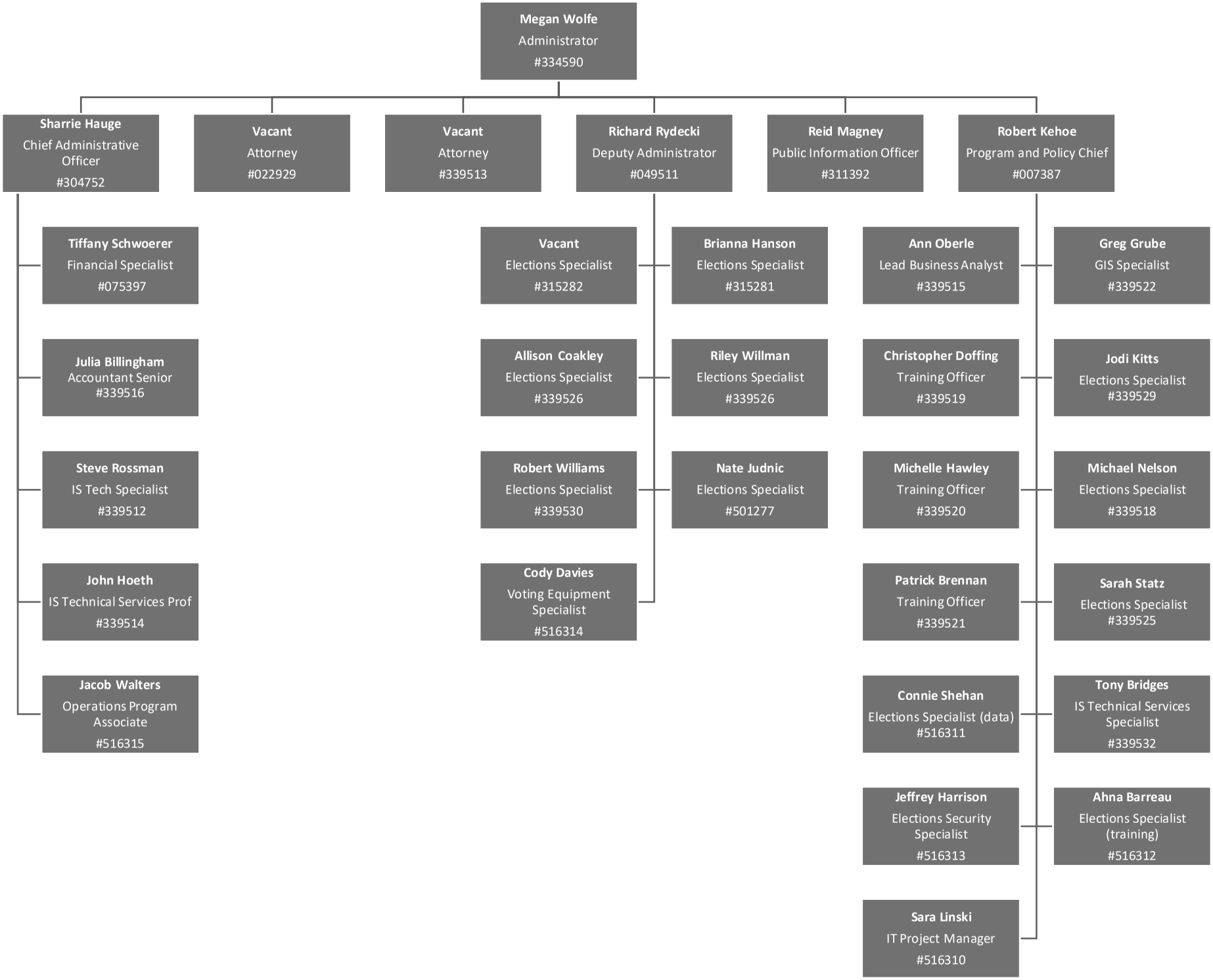
Candidates must possess a law degree from an accredited law school and be eligible to be licensed to practice law in the State of Wisconsin.

The selected candidate must not have given a contribution to a partisan campaign or candidate twelve months prior to the appointment.

Job Knowledge, Skills and Abilities:

1. Excellent communication skills (verbal and written).
2. Ability to translate complex, technical information, and/or processes to clients.
3. Knowledge and familiarity with administrative law.
4. Knowledge and familiarity in elections law.
5. Basic legal skills pertaining to legal issue analysis, legal writing skills, representation, and oral advocacy.
6. Ability to work independently and be self-motivated.
7. Ability to problem solve and employ analytical abilities to provide innovative professional judgement in analyses and decisions.
8. Ability to effectively prioritize workload and adapt to changing priorities.

AMERICAN OVERSIGHT



AMERICAN OVERSIGHT

POSITION DESCRIPTION

IMPORTANT: PLEASE READ INSTRUCTIONS ON PAGES 2 and 3

DOA-15302 (C07/2015)
PREVIOUSLY OSER-DMRS-10
State of Wisconsin
Department of Administration/Division of Personnel Management

1. Position No.	2. Cert / Reclass Request No.	3. Agency No.
022929	ATTH200117	Elections

4. NAME OF EMPLOYEE
James Witecha

5. DEPARTMENT, UNIT, WORK ADDRESS
Elections
212 E. Washington Ave.
Madison, WI 53703

6. CLASSIFICATION TITLE OF POSITION
Attorney

7. CLASS TITLE OPTION (*to be filled out by Human Resources Office*)

8. NAME AND CLASS OF FORMER INCUMBENT
Michael Haas, Attorney

9. AGENCY WORKING TITLE OF POSITION

10. NAME & CLASS OF EMPLOYEES PERFORMING SIMILAR DUTIES
Nathan Judnic, Attorney

11. NAME AND CLASS OF FIRST-LINE SUPERVISOR
Meagan Wolfe, Administrator

12. FROM APPROXIMATELY WHAT DATE HAS THE EMPLOYEE PERFORMED THE WORK DESCRIBED BELOW?

13. DOES THIS POSITION SUPERVISE SUBORDINATE EMPLOYEES IN PERMANENT POSITIONS? Yes ☐ No ☑
IF YES, COMPLETE AND ATTACH A SUPERVISOR EXCLUSION ANALYSIS FORM.

14. POSITION SUMMARY – PLEASE DESCRIBE BELOW THE MAJOR GOALS OF THIS POSITION:

15. DESCRIBE THE GOALS AND WORKER ACTIVITIES OF THIS POSITION *(Please see sample format and instructions on Page 3.)*

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— TIME %: Include for goals and major worker activities.

TIME %	GOALS AND WORKER ACTIVITIES
	(Continue on attached sheets)

16. SUPERVISORY SECTION - TO BE COMPLETED BY THE FIRST LINE SUPERVISOR OF THIS POSITION *(See Instructions on Page 2)*

a. The supervision, direction, and review given to the work of this position is ○ close ○ limited ◉ general.
b. The statements and time estimates above and on attachments accurately describe the work assigned to the position.
(Please initial and date attachments.)

Signature of first-line supervisor _____ Date _____

17. EMPLOYEE SECTION - TO BE COMPLETED BY THE INCUMBENT OF THIS POSITION

I have read and understand that the statements and time estimates above and on attachments are a description of the functions assigned my position.
(Please initial and date attachments.)

Signature of employee _____ Date _____

18. Signature of Human Resources Manager Kristina Thole Digitally signed by Kristina Thole Date: 2020.09.10 12:56:43 -05'00' Date _____

DISTRIBUTE COPIES OF SIGNED FORM TO:
☐ P-FILE ☐ SUPERVISOR ☐ EMPLOYEE ☐ CERT REQUEST COPY

AMERICAN OVERSIGHT

Wisconsin Elections Commission
Attorney

Position Summary

Under the general policy direction of the Elections Commission Administrator, this position is responsible for providing legal advice on the application of elections laws to the Commission and its staff along with authoritative and timely advice and information to candidates, state and local election officials, state public officials and the general public. This position is responsible for preparing legal opinions, enforcement orders and administrative rules to implement agency policy and authority.

This position will also represent and support the agency in all relevant litigation matters, including preparing agency legal filings and acting as a liaison with agency outside counsel. All agency staff is also required by state law to meet standards for non-partisanship. It is imperative that the incumbent not place himself or herself in a position that would undermine officials' or the public's confidence in the Commission's integrity, fairness, and non-partisanship.

Duties and Responsibilities

30%

A. Provide legal advice to the Commission and staff, along with authoritative and timely advice and information on the application of laws, rules and regulations under the agency's jurisdiction to candidates, state and local election officials, state public officials and members of the public.

1. Research and prepare memoranda for consideration by the Commission, Administrator and staff on a wide variety of election administration legal issues.

2. Provide written response to correspondence and inquiries concerning election administration issues, regulations and requirements. This position also provides advice when called directly and offers guidance to other staff about how to respond to oral requests for advice.

3. Provide prompt written information on the application of laws, rules and regulations under the agency's jurisdiction to agency customers, the media and the public.

4. Prepare prompt written responses to correspondence referred by the Administrator.

5. Answer telephone inquiries referred by the agency staff including direct calls.

6. Provide advice and direction to agency staff on the application of laws, rules and regulations under the agency's jurisdiction. Work with key agency personnel to ensure effective agency management of legal issues.

AMERICAN OVERSIGHT

7. Prepare formal opinions issued by the Commission and informal opinions as directed by the Commission or Administrator.

8. Prepare and present information and training programs and materials for agency clientele and the public.

9. Assist in the development, review, and revision of forms, manuals, procedures and publications of the agency and administer the agency guidance document review and approval process.

20%

B. Administer the statutorily required process for complaints submitted to the Commission alleging violations of election law.

1. Develop and revise procedures for processing complaints filed with the agency and conducting research of complaints.

2. Research applicable law to prepare reports and recommendations to the Commission, and Administrator on alleged violations of laws, rules and regulations under the agency's jurisdiction.

3. Conduct research of complaints filed with the Commission following established agency procedures. This includes analyzing facts gathered during complaint process and prepare written report with legal analysis and recommendations.

4. Refer matters to the district attorney or attorney general for investigation and further action. At the direction of the Commission this position would prepare documents to make referrals to the appropriate district attorney for criminal prosecutions and disposition of violations in local races.

5. Review complaints challenging sufficiency of nomination papers, recall petitions and petitions for ballot access filed with the Commission. This includes evaluating petition problems identified by staff and complainants and conduct a review following agency procedures to ensure due process to all affected parties and timely resolution by the Commission and Administrator.

20%

C. Represent the agency in election related matters and provide litigation support on behalf of the agency.

1. Manage agency related litigation matters and provide analysis of legal actions involving the Commission.

2. Assist the office of the Attorney General when legal action has been brought against the Commission or staff.

3. Represent the agency in state and federal courts in cases where the Attorney General does not represent the Commission.

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4. Serve as liaison between agency counsel and the Commission and Administrator.

5. Draft pleadings and other legal filings in support of agency litigation matters.

6. Review and provide feedback for legal filings made on behalf of agency counsel.

7. Provide timely litigation updates to the Commission and Administrator.

8. Maintain agency litigation and enforcement files and records.

20%

D. Provide legislative support services for the agency.

1. Identify areas for remedial legislation and make recommendations to the Commission and Administrator for proposed legislative changes.

2. Review legislative drafts prepared by the Legislative Reference Bureau and assisting drafting proposed legislation.

3. Represent agency at legislative and agency hearings as assigned by Administrator.

4. Monitor and analyze legislation related to laws, rules and regulations under the agency's jurisdiction and other matters related to the agency.

5. Prepare assigned bill analyses and fiscal estimates.

6. Work and consult with Commission members, staff, legislators, legislative committees and others on proposed legislative changes with respect to subject areas of laws, rules and regulations under the agency's jurisdiction.

10%

E. Implement administrative rule making authority and responsibilities of agency.

1. Draft rules following procedures established by the Legislative Clearinghouse for the preparation and review of administrative rules.

2. Prepare new rules required by law or directed by the Commission.

3. Revise agency administrative code, maintaining consistency with statutory changes.

4. Carryout promulgation responsibilities to assure enactment of agency rules.

5. Identify areas for rule development.

6. Review rules with Commission, Administrator, and staff.

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Special Notes:

Candidates must possess a law degree from an accredited law school and be eligible to be licensed to practice law in the State of Wisconsin.

The selected candidate must not have given a contribution to a partisan campaign or candidate twelve months prior to the appointment.

Job Knowledge, Skills and Abilities:

1. Excellent communication skills (verbal and written).
2. Ability to translate complex, technical information, and/or processes to clients.
3. Knowledge and familiarity with administrative law.
4. Knowledge and familiarity in elections law.
5. Basic legal skills pertaining to legal issue analysis, legal writing skills, representation, and oral advocacy.
6. Ability to work independently and be self-motivated.
7. Ability to problem solve and employ analytical abilities to provide innovative professional judgement in analyses and decisions.
8. Ability to effectively prioritize workload and adapt to changing priorities.

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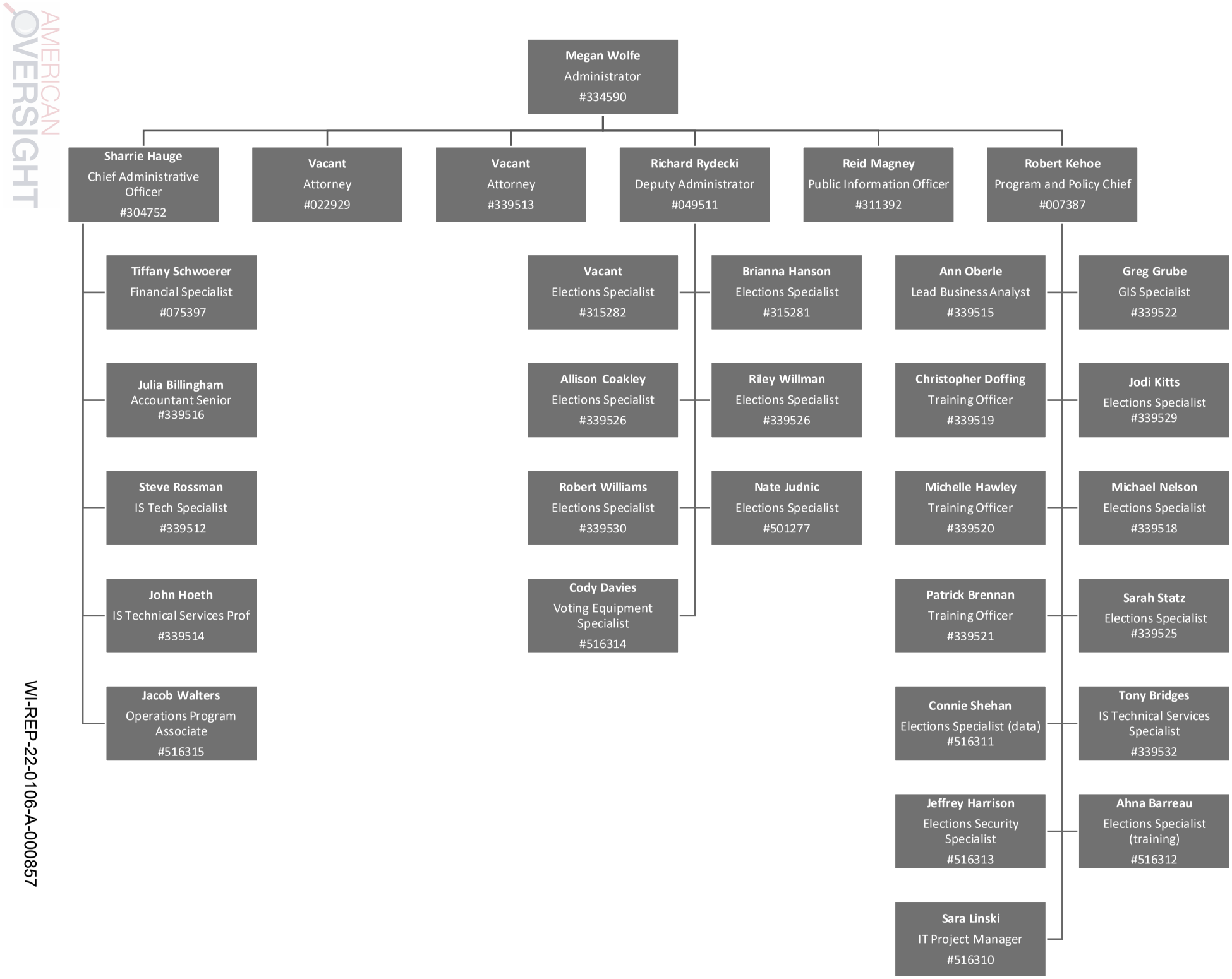
AMERICAN OVERSIGHT
Megan Wolfe
Administrator
#334590
Sharrie Hauge
Chief Administrative Officer
#304752
Vacant
Attorney
#022929
Vacant
Attorney
#339513
Richard Rydecki
Deputy Administrator
#049511
Reid Magney
Public Information Officer
#311392
Robert Kehoe
Program and Policy Chief
#007387
Tiffany Schwoerer
Financial Specialist
#075397
Julia Billingham
Accountant Senior
#339516
Steve Rossman
IS Tech Specialist
#339512
John Hoeth
IS Technical Services Prof
#339514
Jacob Walters
Operations Program Associate
#516315
Vacant
Elections Specialist
#315282
Allison Coakley
Elections Specialist
#339526
Robert Williams
Elections Specialist
#339530
Cody Davies
Voting Equipment Specialist
#516314
Brianna Hanson
Elections Specialist
#315281
Riley Willman
Elections Specialist
#339526
Nate Judnic
Elections Specialist
#501277
Ann Oberle
Lead Business Analyst
#339515
Christopher Doffing
Training Officer
#339519
Michelle Hawley
Training Officer
#339520
Patrick Brennan
Training Officer
#339521
Connie Shehan
Elections Specialist (data)
#516311
Jeffrey Harrison
Elections Security Specialist
#516313
Sara Linski
IT Project Manager
#516310
Greg Grube
GIS Specialist
#339522
Jodi Kitts
Elections Specialist
#339529
Michael Nelson
Elections Specialist
#339518
Sarah Statz
Elections Specialist
#339525
Tony Bridges
IS Technical Services Specialist
#339532
Ahna Barreau
Elections Specialist (training)
#516312

WISCONSIN CIRCUIT COURT
RACINE COUNTY

Martin Prujansky 1635 College Ave Racine WI 53403 Mary Imhof Prujansky 1635 College Ave Racine WI 53403 Kenneth Brown 217 Gaslight Circle Racine WI 53403 Mailing address: 341 Main Street #8 Racine WI 53408 Brooke Hesse 3920 16th Street Racine WI 53405 Dale Giles 2218 Jerome Blvd. Racine WI 53403 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

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THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 730 Wisconsin Ave, Racine, WI 53403 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WISCONSIN CIRCUIT COURT
RACINE COUNTY

Martin Prujansky 1635 College Ave Racine WI 53403 Mary Imhof Prujansky 1635 College Ave Racine WI 53403 Kenneth Brown 217 Gaslight Circle Racine WI 53403 Mailing address: 341 Main Street #8 Racine WI 53408 Brooke Hesse 3920 16th Street Racine WI 53405 Dale Giles 2218 Jerome Blvd. Racine WI 53403 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case Code: 30703 Case Type: Unclassified Case No. _____

COMPLAINT
REVIEW OF COMMISSION DECISION

AMERICAN OVERSIGHT

Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Racine for alleged violations of election laws regarding the City of Racine facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Racine. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Racine's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

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- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24)

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Plaintiff Martin Prufansky is a Wisconsin elector residing at 1635 College Avenue, Racine, Wisconsin 53403.

2. Plaintiff Mary Imhof Prufansky is a Wisconsin elector residing at 1635 College Avenue, Racine, Wisconsin 53403.

3. Plaintiff Kenneth Brown is a Wisconsin elector residing at 217 Gaslight Circle, Racine, Wisconsin 53404 with a mailing address of 341 Main Street #8, Racine WI 53408.

4. Plaintiff Brooke Hesse is a Wisconsin elector residing at 3920 16th Street, Racine, Wisconsin 55405.

5. Plaintiff Dale Giles is a Wisconsin elector residing at 2218 Jerome Blvd., Racine, Wisconsin 53403.

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The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Racine County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Racine, the clerk for the City of Racine, Tara Coolidge, and the WEC Administrator, Megan Wolfe, WEC case number EL 21-29.

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11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

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19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076*.

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint,* ¶¶ *17, 25, 26–30, 32, 47*.

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint* ¶ *29*. The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018*.

23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election

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> administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394.*

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994.*

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).*

28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

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29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*
- Poll worker recruitment and training; *id., App. 991–992;* and
- Safe and efficient election-day administration; *id, App. 993–994*.

31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

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- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;

- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;

- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and

- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example, Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

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34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision was directed at purely governmental functions: monetary appropriations and governmental decision-making.

38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

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Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

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- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157.*

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160.*

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6.*

- Modern Selections to address Spanish language. *Id., App. 167-9.*

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

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- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600*.

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census

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> Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338.*

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't

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know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots

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returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303).*

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

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49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and

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supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10*. Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11*. Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

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Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Racine's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were

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no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8.*

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Racine may have resulted in benefit to Racine voters over those outside of Racine, and although voters within Racine may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 11.* This analysis reflects a reliance upon record

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documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Racine, to the disadvantage of others." *Exhibit A, WEC Decision at 11.* This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

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> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

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76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues

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beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

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90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

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Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
>
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
>
> (1m) Any person who does any of the following violates this chapter:
>
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
>
> 1. Go to … the polls.
>
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on

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election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.
>
> (g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

> A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:
>
> 1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.
>
> 2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.
>
> 3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

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B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

> Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:
>
> (a) *Induce any voter to*:
>
> (1) Refrain from voting at any election.
>
> (2) Vote or refrain from voting at an election for any particular person or measure.
>
> (3) *Remain away from the polls at an election*.
>
> (b) *Reward any voter for having*:
>
> (1) Refrained from voting.
>
> (2) Voted for any particular person or measure.
>
> (3) Refrained from voting for any particular person or measure.
>
> (4) *Remained away from the polls at an election*.
>
> Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

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109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to

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excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

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117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11,

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Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

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130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

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139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

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(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

    i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
    ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted

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populations of city, violates federal and state law, and are void as illegal and against public policy.

iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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WI-REP-22-0106-A-000895

DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Prujansky, et al. v. Wolfe*
Case No. EL 21-29

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated April 21, 2021, which you submitted to the Commission on behalf of your clients, Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse, and Dale Giles (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Cory Mason, Mayor of the City of Racine; and Tara Coolidge, Clerk for the City of Racine. Complainants accompanied the Complaint with an Appendix of nearly 400 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Mason and Coolidge filed a joint Verified Response ("Racine Response") and Respondent Wolfe filed both a Response ("Wolfe Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-30, 21-31, and 21-33). Respondents Mason and Coolidge objected to the combined Memorandum of Law and Appendix by letter dated August 11, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Mason and Coolidge again objected to the

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WI-REP-22-0106-AP-00896 EXHIBIT A

Reply by letter dated August 24, 2021, arguing that Complainants failed to file a "separate" reply for this matter and instead ascribed to Respondents Mason and Coolidge actions taken outside of Racine, by officials in other municipalities. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Mason and Coolidge filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various responses and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Racine, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Racine adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Racine's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 17, 26, 32. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 26, 30. The Complaint alleges that CTCL money was accepted by the City of Racine, the City of Green Bay, the City of Kenosha, the City of Milwaukee, and the City of Madison. Complaint, ¶¶ 25-30, 32. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 33.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Racine failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, p. 3. *See also* Complaint, ¶¶ 44, 69 (the City of Racine agreed to conditions "contrary to, or in-place of, or in addition to Wisconsin or federal election laws" and unconstitutionally diverted election authority to others, including "private corporations and their employees").

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 47 ("[W]ith the added private conditions on Racine's election process, the Racine Complainants were within a jurisdictional

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boundary that affected them as a demographic group."). *See also* Complaint ¶ 48 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 65. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 86.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Racine's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 4, 21.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Racine and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 22.

- Complainants request that the "Commission … issue an order declaring that Racine's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 22.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 22-23. *See also* Complaint, p. 4.

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- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 23.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 23.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Racine accepted and received the CTCL grant money.

Respondents Mason and Coolidge assert several defenses to the Complaint, including the following:

- "Complainants fail to identify any law that prohibits a municipal government's acceptance of outside funds in order to provide a safer voting experience for its electorate or identify any law they claim was violated." Racine Response, p. 2. Respondents Mason and Coolidge argue that "[t]he Legislature has acknowledged that current law includes no such provision [prohibiting municipalities from using private grant funds] by its ongoing attempts to enact such a law." *Id.* (citing 2021 Wis. S.B. 207 and 2021 Wis. A.B. 173).

- "[M]ore than 200 cities, villages, towns, and counties in Wisconsin received COVID-19 response grants from CTCL. The hundreds of diverse municipalities and governmental entities to have received CTCL COVID-19 response grants are situated all over Wisconsin." Racine Response, p. 3. Complainants do not contest this fact, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "The Complaint is not timely." Answer, p. 4. *See also* Answer, pp. 5-13.

- The Complaint "does not set forth facts establishing probable cause to believe that any violation of law has occurred." Answer p. 4. *See also* Answer, pp. 14-16.
- Respondents Mason and Coolidge "are not the proper parties to this Complaint…." Racine Response, p. 14. This argument is presented as follows: "[A]ll of Complainants' legal arguments center around the acceptance of the CTCL grant funds and approval of how those funds were to be used. Neither the Mayor nor the City Clerk, in any of their professional capacities, had authority to accept the grant on behalf of the City of Racine. The Common Council took that action in the name of the City of Racine, yet the City is not named as a party. The named Respondents are not synonymous with the entire City government. [T]hey have specific roles within it, and those roles do not include authority to accept the CTCL grant funds." Racine Response, p. 14. In their sur-reply brief,

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Respondents Mason and Coolidge further allege that Mr. Mason, as Mayor, is not an election official. Sur-Reply, p. 4.

- "Complainants would have the Commission exceed its statutory authority by creating new election laws—essentially usurping legislative authority to do so." Racine Response, p. 22.

In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Wolfe Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 32.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 34. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 65), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

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Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Racine's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Mason and Coolidge committed a violation of law or abuse of discretion as a result of the City of Racine's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."
Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

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i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents (including Cory Mason and Tara Coolidge, who are Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 12).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

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U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 13).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 14. However, Complainants do not show that either the Elections Clause or the Electors Clause of the U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

As Respondents Mason and Coolidge note in their Response, two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Racine) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

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2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 71-72. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

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In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

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Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Racine may have resulted in benefit to Racine voters over those outside of Racine, and although voters within Racine may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Racine. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Racine, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Racine. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

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ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

First, although Complainants assert that Respondent Wolfe supported the City of Racine's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness, whether the Mayor is an election official, and whether the Mayor and City Clerk are even proper parties to an action that relates to grant money accepted by the Common Council of the City of Racine.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations

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to the State Legislature for changes to state election laws." Complaint, p. 23. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Scott R. Letteney, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

AMERICAN OVERSIGHT

WISCONSIN CIRCUIT COURT
RACINE COUNTY

Martin Prujansky 1635 College Ave Racine WI 53403 Mary Imhof Prujansky 1635 College Ave Racine WI 53403 Kenneth Brown 217 Gaslight Circle Racine WI 53403 Mailing address: 341 Main Street #8 Racine WI 53408 Brooke Hesse 3920 16th Street Racine WI 53405 Dale Giles 2218 Jerome Blvd. Racine WI 53403 Plaintiffs, v. Wisconsin Elections Commission 212 East Washington Avenue, Third Floor P.O. Box 7984 Madison, Wisconsin 53707-7984 Defendant.	Case No. _____ **Summons**

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THE STATE OF WISCONSIN, To Wisconsin Elections Commission:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 730 Wisconsin Ave, Racine, WI 53403 and to Erick G. Kaardal and Gregory M. Erickson, Plaintiffs' attorneys, whose address is 150 South Fifth Street, Suite 3100, Minneapolis, MN 55402. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

AMERICAN OVERSIGHT

WISCONSIN CIRCUIT COURT
RACINE COUNTY

Case Code: 30703
Case Type: Unclassified

Case No. _____

Martin Prujansky
1635 College Ave
Racine WI 53403

Mary Imhof Prujansky
1635 College Ave
Racine WI 53403

Kenneth Brown
217 Gaslight Circle
Racine WI 53403
Mailing address:
341 Main Street #8
Racine WI 53408

Brooke Hesse
3920 16th Street
Racine WI 53405

Dale Giles
2218 Jerome Blvd.
Racine WI 53403

Plaintiffs,

v.

Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984

Defendant.

COMPLAINT
REVIEW OF COMMISSION DECISION

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Introduction

This is an appeal from a Wisconsin Election Commission decision dismissing the underlying WEC Complaint against the City of Racine for alleged violations of election laws regarding the City of Racine facilitating increased in-person and absentee voting for targeted populations, privately funded and directed by Center for Tech and Civil Life (CTCL), by means of a contractual agreement. The contractual agreement, financed by a CTCL grant, was contrary to sound morality and public policy because it disproportionally benefitted certain voters over others within the State of Wisconsin and within the City of Racine. Since the election process is a core government function, the government and its speech must remain neutral during the election process and the government and its speech must not be subject to the dictation of a private party. Racine's actions have been and are illegal, unconstitutional and substantial departures from Wisconsin's legislative scheme of conducting elections.

The WEC December 8, 2021 decision on appeal dismissed the Complaint on the ground that it did not raise probable cause to believe a violation of the law or abuse of discretion occurred. The Plaintiffs request this Court to set aside the agency's decision because the WEC erroneously interpreted the law.

Related Cases

This matter is related to four other Circuit Court appeals of WEC's decisions involving four other Wisconsin cities:

- Cynthia Werner, Rochar C. Jeffries, Mack Azinger, Dave Bolter, Daniel Joseph Miller, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Mayor Tom Barrett, City of Milwaukee, Jim Owczarski, City Clerk—City of Milwaukee (WEC Case No. 21-31);

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- Brian Thomas, Tamara Weber, Matthew Augustine, Kevin Mathewson, Mary Magdalen Moser, Pamela Mundling, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission, Hon. John M. Antaramian, Mayor, City of Kenosha, and Matt Krauter, City Clerk, Respondents (WEC Case No. 21-30);

- Richard Carlstedt, Sandra Duckett, James Fitzgerald, Thomas Sladek, and Lark Wartenberg, Complainants vs. Administrator Meagan Wolfe, Wisconsin Elections Commission Hon. Eric Genrich, Mayor, City of Green Bay, Celestine Jeffries, Former Green Bay Mayor Chief of Staff, Kris Teske, Former City Clerk of Green Bay, Respondents (WEC Case No. 21-24)

- Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin, and Bonnie Held, Complainants vs. Administrator Meagan Wolfe. Wisconsin Elections Commission, Mayor Satya Rhodes-Conway, and Maribeth Witzel-Behl, City Clerk, City of Madison, Respondents (WEC Case No. 21-33).

The Parties

The Plaintiffs:

1. Plaintiff Martin Prufansky is a Wisconsin elector residing at 1635 College Avenue, Racine, Wisconsin 53403.

2. Plaintiff Mary Imhof Prufansky is a Wisconsin elector residing at 1635 College Avenue, Racine, Wisconsin 53403.

3. Plaintiff Kenneth Brown is a Wisconsin elector residing at 217 Gaslight Circle, Racine, Wisconsin 53404 with a mailing address of 341 Main Street #8, Racine WI 53408.

4. Plaintiff Brooke Hesse is a Wisconsin elector residing at 3920 16th Street, Racine, Wisconsin 55405.

5. Plaintiff Dale Giles is a Wisconsin elector residing at 2218 Jerome Blvd., Racine, Wisconsin 53403.

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The Defendant:

6. Defendant Wisconsin Election Commission is a governmental agency created under Wisconsin Statutes § 5.50 and charged with the administration of Wisconsin's statutory provisions under Chapters 5 and 6 and other laws relating to elections, election campaigns, or other rules or regulations relating to elections and campaign financing. The WEC has its offices and principal place of business at 212 E. Wisconsin Avenue, 3rd Floor, Madison, Wisconsin, 53703.

Jurisdiction and Venue

7. This Court has jurisdiction and venue under Wisconsin Statutes § 5.06 (8):

> Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

8. Venue is proper under Wisconsin Statutes § 801.50 because the claim arose in Racine County, Wisconsin.

Nature of the Action

9. This is an appeal of the Wisconsin Election Commission's decision, rendered on December 8, 2021. *Exhibit A* (*WEC Decision);* Wisconsin Statutes § 5.06 (8).

10. A complaint was brought before the WEC under Wisconsin Statutes § 5.06, against the City of Racine, the clerk for the City of Racine, Tara Coolidge, and the WEC Administrator, Megan Wolfe, WEC case number EL 21-29.

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11. Because the WEC was a named party to the WEC Complaint, the WEC engaged the DeWitt LLP Law Firm as special counsel.

12. As the WEC's special counsel, it established an administrative briefing process for each party to summit memoranda on the issues raised in the underlying WEC Complaint or respondent defenses, and supplementation of the record, if necessary.

13. The verified WEC Complaint, dated April 21, 2021, was filed with the WEC included document exhibits numbered 0001–0482. *E.g., WEC Complaint Exhibits Nos. 0001–0482.*

14. The WEC Complainants did supplement the record during the briefing process. *See, e.g., WEC Complainants' Reply Appendix* (a common appendix was used for each reply for each city).

15. Under Wisconsin Statutes § 5.06(1), "[t]he complaint may be accompanied by relevant supporting documents."

16. Because of the extensive record of the underlying WEC proceedings inclusive of the WEC Complaint exhibits and supplemental documents during the briefing process they are not reproduced with this initial filing, but are referenced accordingly as part of the appeal-complaint. *WEC Complainants Reply Appendix App. 001–1076.*

17. No authenticity or other objections were made during the WEC proceedings regarding any document attached to the WEC Complaint or later supplemented and used to support the allegations asserted. *See e.g., Exhibit A, WEC Decision (Dec. 8, 2021).*

18. The WEC Complaint attached Exhibits and supplemented record advanced or supported the Complaint's allegations. *Id.*

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19. None of the documents submitted as part of the record to support the WEC Complaint were rejected on authenticity or other grounds. *Id., WEC Complaint Exhibits Nos. 0001–0482; WEC Complainants Reply Appendix App. 001–1076*.

20. The WEC Complaint alleged that the City of Racine, through its Mayor, working with a private non-profit corporation known as the Center for Tech and Civic Life, induced —through recruiting efforts—the Mayors of four other Wisconsin cities through a grant application process to obtain private moneys for a core governmental function—administrating the election process within each city's respective electoral jurisdictional boundary. *E.g., WEC Complaint,* ¶¶ *17, 25, 26–30, 32, 47*.

21. The Mayor of Racine succeeded in his effort having obtained a commitment from four other Mayors from the Cities of Green Bay, Knosha, Madison, and Milwaukee. *E.g., WEC Complaint* ¶ *29*. The meetings were held without the guidance, consent, or knowledge of all common council members of each of the respective participating cities, but for the City of Racine.

22. The Racine Common Council adopted CTCL's planning grant for Racine and in so doing, directed the Mayor to work in cooperation with other cities to submit a joint grant proposal. *E.g., Complainants' Reply Appendix, App. 868– 869, 1018*.

23. CTCL, through the planning grant agreement, required the City of Racine, and any other recruited city granted funds, to produce a "plan for a safe and secure election administration" in each city:

> The City of Racine, and any cities granted funds under paragraph 4, shall produce, by June 15th, 2020, a plan for a safe and secure election administration in each such city in 2020, including election

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> administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters.

E.g., Complainants' Reply Appendix, App. 394, 1018.

24. The City of Racine would later be awarded for its "recruiting" efforts with moneys received from CTCL in the amount of $60,000.00, while the four remaining cities were rewarded $10,000.00 each for their involvement with the CTCL grant application process. *E.g., WEC Complaint ¶¶ 26–28, WEC Complaint Exhibit Nos. 393-394; see also, Complainants' Reply Appendix, App. 393–394*.

25. As part of the application process to obtain millions of dollars from CTCL, the cities coordinated together to create a document referred to as the "Wisconsin Safe Voting Plan." *WEC Complaint Exhibits 395–415; e.g., Complainants Reply Appendix App.974–994*.

26. The Wisconsin Safe Voting Plan contained provisions to facilitate increased in-person voting and absentee voting for *targeted* areas and groups based upon geographic and demographic classifications. *Id.*

27. CTCL adopted, with its application acceptance, the Wisconsin Safe Voting Plan as part of a contractual agreement between it and the Cities. *See, WEC Complaint Exhibits 0419–421; e.g., Complainants' Reply Appendix App. 995–997 (Milwaukee), 998–1001 (Madison), 1002–1004 (Kenosha), 1005–1007 (Green Bay), 1008–1016 (Racine).*

28. The CTCL grant application process, as observed above, included a planning grant. Each city during the application process completed a CTCL questionnaire for the planning grant.

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29. The CTCL planning grant questionnaire included responses related to the municipalities plans, needs, and budget estimates for a variety of activities related to the remaining elections in 2020, that are also reflected in the resulting Wisconsin Safe Voting Plan conditional grant agreement. The CTCL dictated the categories for the questionnaire. *E.g., Complainants' Reply Appendix, App. 962–973*. For example, in response to each CTCL category the municipalities responded accordingly and with specific dollar amounts:

- For equity and voter outreach, particularly to communities of color; *Id. at 968*.

30. The CTCL planning grant questionnaire served as the underlying outline for the Wisconsin Safe Voting Plan grant application process that provided specific dollar amounts relating to topical categories such as:

- Assistance to absentee ballot voters; *id., App. 982–983;*
- Facilitation of returning absentee ballots; *id., App. 983–984;*
- Technical improvements for absentee ballot processing; *id., App. 984–985;*
- Expanding early in-person voting and curbside voting; *id., App. 985–987;*
- Expand voter outreach particularly to historically disenfranchised residents; *id., App. 988–990;*
- Poll worker recruitment and training; *id., App. 991–992;* and
- Safe and efficient election-day administration; *id, App. 993–994*.

31. In addition, the CTCL imposed non-negotiated provisions as additional conditions to the Wisconsin Safe Voting Plan contractual agreement. *Id., WEC Complaint* ¶ *53*. The non-negotiable contract conditions included:

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- The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of…in accordance with the Wisconsin Safe Voting Plan 2020;

- Each city or county receiving the funds was required to report back to CTCL by January 31, 2021 regarding the moneys used to conduct federal elections;

- The City of…shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of ….(the Clerk) or fail to appropriate or provide previously budgeted funds to the Clerk for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant;

- The City of…shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing; and

- CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgement, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.

Id.

32. Notably, CTCL's funding to the Cities through conditional grant agreements allowed it to participate in the election process for that electoral jurisdiction. For example, Tina Epps-Johnson of CTCL would contact the Cities to introduce them to CTCL "partners:"

> Tiana and her team have arranged for extensive expert technical assistance form fantastic and knowledgeable partners across the country, to help each City implement our parts of the Plan.

Complainants Reply Appendix App. 269–270, 821–822.

33. There was no expressed provision in any CTCL conditional grant agreement regarding the use of its partners to facilitate the election administration process.

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34. However, the CTCL agreement did severely restrict any participating city governmental effort to engage any other organization without CTCL's permission:

> The City of [ ] "shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing."

E.g., Complainants Reply Appendix App. 995-996 (Milwaukee), 998–999 (Madison), 1002–1003 (Kenosha), 1005-1006 (Green Bay), 1010–1011 (Racine).

35. In short, the CTCL would exclusively provide and make available its *pre-approved* "partners" to the Cities for election administration purposes.

36. Likewise, CTCL prohibited government control of expenditures on the election process, whether it was to increase or decrease the amount:

> The City of [ ] shall not reduce or otherwise modify planned municipal spending on 2020 elections, including budgeting of the City Clerk of [ ](the 'City Clerk') or fail to appropriate or provide previously budgeted funds to the Clerk for the term of the grant….

Id.

37. While it would appear CTCL sought to suggest that the grant was supplemental to publicly funded anticipated election expenditures, the above grant provision was directed at purely governmental functions: monetary appropriations and governmental decision-making.

38. Furthermore, the intent of the CTCL conditional grant agreement was to ensure, through its partners, access to planning and operationalizing of the election administration for the participating Cities:

> The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of ….

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Id.

39. CTCL did introduce to the Cities its "pre-approved" partners, who were private corporations to give aid or to administer city election processes:

- The National Vote At Home Institute who was represented as a "technical assistance partner" who could consult about among other things, "support outreach around absentee voting," voting machines and "curing absentee ballots," and to even take that duty (curing absentee ballots) off of the city's hands. *Complainants Reply Appendix App. 36-49, 51-67*. The NVAHI also offered advice and guidance on accepting ballots and streaming central count during election night and on the day of the count. *Id., App. 68-75*.

- The Elections Group and Ryan Chew were represented to be able to provide "technical assistance partners to support your office" and "will be connecting with you in the coming days regarding drop boxes" and technical assistance to "support your office," and worked on "voter outreach." *Id., App. 76-8, 205, 79-81*. Elections Group Guide to Ballot Boxes. *Id., App. 82-121*.

- Ideas42 was represented by CTCL as using "behavioral science insights" to help with communications. *Id., App. 392*.
- Power the Polls was represented by CTCL to help recruit poll workers and discuss ballot curing. *Id., App. 122-124*.

- The Mikva Challenge was recommended to recruit high school age poll workers and then to have the poll workers to "serve as ballot couriers," and for "ballot drop-off/voter registrations." *Id., App. 122–127, 404*.

- US Digital Response was suggested to help with and then take over "absentee ballot curing," and to "help streamline the hiring, onboarding, and management" of Green Bay's poll workers. *Id., App. 128-136*.

- Center for Civic Design to design absentee ballots and the absentee voting instructions, including working directly with the Commission to develop a "new envelope design" and to create "an advertising/targeting campaign." *Id., App. 137-155, 190-201*.

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- Eric Ming, the Communications Director for CSME, to serve as a "communications consultant to review your [City of Green Bay] advertising plan for November." *Id., App. 156-157.*

- The Brennan Center which focuses on "election integrity" including "post-election audits and cybersecurity." *Id., App. 158-160.*

- HVS Productions to add "voter navigator" FAQs and Election Countdown Copy for the city of Green Bay. *Id., App. 161-6.*

- Modern Selections to address Spanish language. *Id., App. 167-9.*

40. Efforts of CTCL to interject itself into the election administration process under the guise of implementing the Wisconsin Safe Voting Plan as a partnership with city government and CTCL's associated partners as described above is reflected in the underlying grant agreement as well as communications between the Cities and CTCL. For example:

- Outgoing and return absentee envelopes from Center for Civic Design (CCD). They are already in conversation with WEC to get this approved at the state level. I recognize you may not be able to roll these out for November, but keep them on your radar for 2021.

- Communications Toolkit from National Vote at Home Institute (NVAHI). Includes sample graphics, language, and comms plans. Just plug and play. Also, NVAHI is planning to do a webinar after the primary to dig into the toolkit and answer questions from WI clerks. Date and time TBD, so stay tuned on this front.

- Voters of Color: Communicating Safe Options for November. This is a free webinar tomorrow at 10:30 am Central Time that will go over the results of a national survey of POC voters to determine voter sentiment in regards to vote by mail.

Id., App. 0037.

41. CTCL's efforts to interject itself through CTCL partners into a city's election administration processes becomes evident in a number of different ways. For example,

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- CTCL offered Milwaukee to provide "an experienced elections staffer [from the Elections Group] that could potentially *embed* with your staff in Milwaukee in a matter of days and fill that kind of a role." *Id., App. 626* (emphasis added).

- National Vote at Home Institute ("NVAHI") employee Michael Spitzer-Rubenstein, wrote to Claire Woodall-Vogg, Executive Director of the City of Milwaukee Election Commission: "can you connect me to Reid Magney and anyone else who might make sense at the WEC? Would you also be able to make the connection with the Milwaukee County Clerk?" *Id., App. 600*.

- If you could send the procedures manual and any instructions for *ballot reconstruction, I*'d appreciate that. On my end: • By Monday, I'll have our edits on the absentee voter instructions. • We're pushing Quickbase to get their system up and running and I'll keep you updated. • I'll revise the planning tool to accurately reflect the process. *Id., App. 600 (Michael Spitzer-Rubenstein emailing to Claire Woodall-Vogg of Milwaukee).*

- I'll create a flowchart for the VBM [vote by mail] processing that we will be able to share with both inspectors and also observers. • I'll take a look at the reconstruction process and try to figure out ways to make sure it's followed. *Id.*

- I know you won't have the final data on absentee ballots until Monday night but I imagine you'll want to set things up beforehand. Just let me know your timeline for doing so and if you get me the absentee data a day ahead of time and I can set things up. And as a reminder, here's what I'll need: 1) Number of ballot preparation teams 2) Number of returned ballots per ward 3) Number of outstanding ballots per ward. *Id., App. 673 (Michael Spitzer-Rubenstein to Claire Woodall-Vogg).*

- In the state of affairs now, we are just looking for raw data. The end result of this data will be some formulas, algorithms and reports that cross reference information about ballots and the census data. For example, we want to deliver to Milwaukee + Voteathome answers to questions like "How many of age residents are also registered to vote?" or "what percentage of ballots are unreturned in areas with predominantly minorities?" To do that, we need a clear link between address + Census Tract. We need this for all ~300k voters and the ~200k+ absentee ballots, and it needs to be able automatic as we perform more inserts. To accomplish this, we were making calls to the Census API. They allow you to pass in an address and get the Census

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> Tract. That solution "works", but is far too slow. Their batch solution isn't working either." *Id., App. 653-658.*

42. City election officials, namely city clerks, expressed concern about the CTCL's role in the 2020 election process. For example:

- While I completely understand and appreciate the assistance that is trying to be provided*, I am definitely not comfortable having a non-staff member involved in the functions of our voter database, much less recording it.* While it is a pain to have to remember to generate a report each night and less than ideal, it takes me less than 5 minutes. Without consulting with the state, which I know they don't have the capacity or interest in right now, I don't think I'm comfortable having USDR get involved when it comes to our voter database. I hope you can see where I am coming from – this is our secure database that is certainly already receiving hacking attempts from outside forces. *Id., App. 659 (Claire Woodall-Vogg to Michael Spitzer-Rubenstein) (emphasis added).*

- A further complicating factor arose when outside (private) organizations were engaged to participate in the planning and administration of the election. *Kris A. Teske, former Green Bay City Clerk Resp. to WEC Complaint at 3, EL-20-24 (June 15, 2020).*

- Many of these [election administration] decisions were made by persons who were not authorized to do so and some were made by people not qualified to make them as, again, election laws need to be followed to ensure the integrity of the election. *Id.*

43. And, in at least one case, a City Clerk was losing her election administrative authority to the Mayor's office because of the CTCL partnership with the City and CTCL's other private corporate partners. For example:

- I haven't been in any discussions or emails as to what they are going to do with the money. I only know what has been on the news/in the media...Again, I feel I am being left out of the discussions and not listened to at the meetings. *Complainants WEC Reply Appendix, App. 338.*

- Celestine also talked about having advisors from the organization giving the grant who will be 'helping us' with the election and I don't

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know anything about that. *Id. at 339*.

- I don't understand how people who don't have the knowledge of the process can tell us how to manage the election. *Id.*

- I just attended the Ad Hoc meeting on Elections….I also asked when these people from the grant give us advisors who is going to be determining if their advice is legal or not…I don't think it pays to talk to the Mayor because he sides with Celestine, so I know this is what he wants. I just don't know where the Clerk's Office fits in anymore. *Id. at 338–339*.

44. Ultimately, CTCL partners succeeded in becoming part of the election process. For example, Michael Spitzer-Rubenstein, from National Vote at Home Institute helped set up Green Bay's and was *the* central figure in running the Central Count on election-day.

45. Michael Spitzer-Rubenstein was not a municipal city clerk employee. *Id., App. 265-9; 314*. Yet, he engaged in the following activities:

- Spitzer-Rubenstein negotiated directly with Trent Jameson of the Hyatt Regency and KI Convention Center so that "both networks reach my hotel room on the 8th floor" including "passwords" for /Wifi results of the election; *Id., App. 270-4*.

- Spitzer-Rubenstein developed a diagram and map of the "Central Count" area of the election and developed roles for the staff to handle and count ballots, and Central Count procedures. *Id., App. 275-96*.

- Spitzer-Rubenstein assigned inspectors for vote counting and polling places. *Id., App. 252*.

- Spitzer-Rubenstein pushed for control of ballot curing process *Id., App. 179-180*.

- Spitzer-Rubenstein provided advice to Green Bay's City Attorney regarding interpretation of Wisconsin statutes governing the timing and receipt of ballots (App. 297-300), such as to "pull the numbers on the absentee ballots

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returned and outstanding per ward" information on vote results and to determine which wards were on which voting machines. *Id., App. 301-303).*

- Spitzer-Rubenstein put himself in charge of transporting ballots to City Hall and then to Central Count on election-day; and then counting them. *See, id., App. 297, 307–309*.

- And, put "together instructions for the Central Count workers…" *WEC Complaint Exhibits at 310*.

- Corresponding with Saralynn Flynn, also of Vote at Home, who wrote: "here is the document I made to hand out to central count observers." (App. 248) The "document" created warned Election Observers to "NOT interfere in any way with the election process," while CTCL personnel, partners, "pollworkers" and others deputized by CTCL, transported ballots, counted ballots, and "cured" defective mail in and absentee ballots, and otherwise exercised considerable control over the election process. *Complainants Reply Appendix, App. 311*.

46. Notably, although there is nothing wrong with getting out the vote, here, there is something different going on: private funding and targeting sub-populations.

47. Instead of a government-funded policy, CTCL's money is given to the city and its officials to induce targeted sub-populations to go to the polls or to vote, ensured through CTCL's own pre-approved partners working collaboratively with the city and its officials to ensure CTCL's goals or objectives for the city are met.

The WEC's Decision

48. The WEC found that the WEC Complainants did not set forth sufficient facts to show probable cause under Wisconsin Statutes § 5.06(1) against the Respondents Mason and Coolidge. *WEC Decision, Exhibit A at 6*.

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49. The WEC found that the acceptance of private grant moneys, with or without conditions and consultant involvement, is not prohibited by any law the WEC administers. *Id. at 7*.

50. The WEC found that Wisconsin Statutes § 7.15(1), governing the election responsibilities of municipal clerks, does not prohibit them from using private money or working with outside consultants in the performance of their duties. *Id.*

51. The WEC found that the Complainants "did not show that either the Elections Clause or the Electors Clause of the U.S. Constitution prohibit the adoption of private corporate conditions or introduction of private corporate employees into the election process." *Id. at 8*.

52. The WEC relied upon the federal court decision in *Wisconsin Voters Alliance v. City of Racine,* No. C-1487, 2020 WL 612950 (E.D. Wis. Oct. 14, 2020), where the court in denying a request for a temporary restraining order opined:

> [T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

Id. quoting 2020 WL 612950 at *2, *appeal dismissed sub nom. Wisconsin Voters Alliance v. City of Racine,* No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (internal citations omitted. Also citing other court decisions to support the WEC's conclusion that "no language in the U.S. Constitution or other election related laws prohibits municipalities from accepting private grant money." *Id. at 9 (citations omitted).*

53. The WEC also found that the acceptance and use of CTCL funds was done "'under color of authority expressly granted…by the Legislature' for the charge and

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supervision of elections under Wisc. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause." *Id. at 10 (citations omitted).*

54. The WEC also rejected the Complainants assertion of a violation of the Equal Protection Clause. *Id. at 10*. Quoting from *Minnesota Voters All. v. City of Minneapolis,* No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020):

> The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters…as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.

Id.

55. Regarding the Complainants' Equal Protection Clause asserted violation, the WEC concluded that the Complainants "provide[d] no facts showing that CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others." *Id. at 11*. Hence, the WEC concluded that the Complainants "fail[ed] to raise probable cause of a potential equal protection violation." *Id.*

56. Regarding the Equal Protection Clause asserted violation, the WEC stated that the Wisconsin Safe Voting Plan was "merely the grant application." *Id.* It subsequently quoted from *Wisconsin Voters All. v. City of Racine,* No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021), in which the federal court found no facts of a specific expenditure of money used to support the claim asserted:

> They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received funds used them in an unlawful way to favor partisan manner.

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Id.

57. In rendering its decision, the WEC also affirmed its statutory responsibilities and authority to "administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief." *Id.* And, the WEC admitted that the Complainants did not seek to have the WEC "*create* law." *Id. (Original emphasis).*

58. The WEC concluded that for "all of the above reasons," "there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation or abuse of discretion." *Id.*

Basis for Claims for Appeal

Count I
The Court may rely on the entire record to determine the disputed matters of law.

59. The WEC made no findings of fact.

60. The WEC decision referenced an "essential fact," the City's acceptance of CTCL moneys. "Essential" means "of or constituting the intrinsic, fundamental nature of something." *E.g., Webster's New World College Dictionary 486, Michael Agnes ed. (4th ed., Macmillan 1999)*:

> [T]he essential fact underlying all of Complainants' allegations—the City of Racine's acceptance of CTCL grant funds—is undisputed….[T]he Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion.

WEC Decision, Exhibit A at 6.

61. As to the record associated with the proceedings, the WEC did not dismiss or reject the supporting documents of the claims asserted in the WEC Complaint. There were

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no authenticity or other objections raised. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

62. In rejecting the Complainants' allegations relating to CTCL's grant conditions under the Elections and Electors Clauses, WEC's analysis references the adoption of the private corporate conditions or introduction of private corporate employees into the election process. *Exhibit A, WEC Decision at 8.*

63. The WEC's reference to the grant conditions and private employees in the election process reveals the commission's reliance upon the record. *Id.* In addition, WEC's decision references certain Wisconsin Senate bills regarding the acceptance of grant funding further indicating a reliance upon the entire record to support its legal analysis without making any findings of fact. *Id.* The WEC record reflects the Complainants' documentation supporting its allegations and analysis of the effect of the conditions and private corporate influence in the election process.

64. Therefore, this Court in its review of the WEC decision may also rely upon the *entire* record for this appeal. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

65. As another example, the WEC in its analysis of the Complainants' arguments relating to Equal Protection Clause violations, the commission stated that "[a]lthough use of the CTCL grant money in Racine may have resulted in benefit to Racine voters over those outside of Racine, and although voters within Racine may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation." *Exhibit A, WEC Decision at 11.* This analysis reflects a reliance upon record

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documents as Complainants referenced and relied upon to support their arguments. *Id.; see also, WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

66. Therefore, again, this Court may rely upon the *entire* record for this appeal.

67. In yet another example, the WEC's decision also states that "Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters for within the City of Racine, to the disadvantage of others." *Exhibit A, WEC Decision at 11.* This also reveals a reliance upon the record as the Complainants submitted in support of their arguments.

68. Therefore, again, this Court may rely upon the *entire* record for this appeal.

69. Under Wisconsin Statutes § 5.06(9), "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration." By relying upon the entire record, as reflected in the WEC decision, this Court—for this appeal— will not be conducting a de novo proceeding.

70. Under Wisconsin Statutes § 5.06(9), "The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57."

71. Section 227.57 reflects the scope of review vested in this Court. For instance, among listed standards, under subsection (1):

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> The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, testimony thereon may be taken in the court and, if leave is granted to take such testimony, depositions and written interrogatories may be taken prior to the date set for hearing as provided in ch. 804 if proper cause is shown therefor.

Count II

The WEC failed to properly analyze and apply the statutory and administrative code standards for probable cause regarding the WEC Complaint.

72. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

73. The WEC Complaint did set forth facts *within the knowledge* of the Complainants to show probable cause. *Wisc. Stat. § 5.06(1).* Under the direction of the WEC, the WEC proceedings regarding the underlying complaint was accompanied by relevant supporting documents. *See e.g., WEC Complaint Exhibits Nos. 0001–0482; Complainants' Reply Appendix, App. 0001–1076.*

74. When a complaint is filed with the WEC, the statutory basis for the complaint is found under Wisconsin chapters 5 through 12 of the governing election law. Here, the underlying WEC Complaint's basis was under § 5.06(1) among other citations to Wisconsin election laws. However, the statutory basis of the complaint does not preclude further arguments or identification of violations of any law or abuse of discretion has occurred during the proceedings. *See, Wisc. Stat. § 5.06(1).*

75. "'Probable cause' means 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." Wis. Admin. Code § EL 20.02(4).

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76. Wisconsin Administrative Code § EL 20.03(3) provides for what type of information in the form of allegations may establish probable cause: "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events."

77. Without findings of fact regarding Complainants' complaint, the WEC could not have properly determined probable cause as defined under Wisconsin Administrative Code § EL 20.02(4) as legally required by Wisconsin Statutes § 5.06(1).

78. Without findings of fact, the WEC undermined its own legal analysis regarding the claims and arguments of the Complainants.

79. This Court should reverse the WEC's determination dismissing the Complainants' complaint because of WEC's failure to make factual determinations prior to its determination no probable cause existed.

Count III

The underlying WEC Decision regarding the state and federal law claims are subject to review and reversal because of the overall CTCL scheme using municipalities to facilitate increased in-person and absentee voting in targeted populations.

80. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

81. Nothing in Wisconsin's election laws governing its process for complaints requires the complainant to fully identify all election laws that may have been violated. Hence, the authority of the WEC to investigate when probable cause is established. *See, Wisc. Stat. § 5.06(1).* But, the facts should have led the WEC to investigate the underlying issues

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beyond what had been already established as probable cause under the existing statutory standards.

82. Taken as a whole, even in the context of the present WEC record, the underlying theme that the Cities received moneys from CTCL pertains to the effect of the conditional grant agreements in the election process as partially outlined above.

83. For example, CTCL directed how local governments were to appropriate or otherwise make decisions related to municipal election budgets.

84. CTCL directed its partners to local municipalities to manage or participate in the election process.

85. And, CTCL facilitated, from the inception of the grant application process, the municipal targeting of a certain segment of "disenfranchised" voters.

86. The activities between the acceptance of private moneys and the acceptance of the effects of accepting private moneys under a conditional grant dictated by a private corporation are two different issues.

87. In administering and organizing the election process, the government and its speech must always be viewpoint neutral. For the municipality and its election speech to depart from viewpoint neutrality is to depart from Wisconsin's legislative scheme.

88. For a private entity to have any control over governmental election speech is a departure from Wisconsin's legislative scheme.

89. For a private entity to have an undue influence over city clerk decision-making in the election process is a departure from Wisconsin's legislative scheme.

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90. Here, grant moneys were the thing of value as an inducement to facilitate, directly or indirectly, the goals of CTCL, as evidenced through from the very beginning, the questionnaire provided to each city.

91. The CTCL grant moneys, facilitated through each municipality, programs or programing to induce people to go to the polls or to vote.

92. CTCL partners embedded with municipalities ensured the inducement of voters occurred.

93. The foregoing facts provides a basis under Wisconsin Statutes § 12.11 on election bribery to void the WSVP and similar contracts in the future as illegal and against public policy.

94. Wisconsin chapter 12 falls within the authority of the WEC.

95. If moneys are used to target a particular disenfranchised population to induce them to vote or go to the polls, it cannot be suggested that all voters are being treated equally. *See, Exhibit A, WEC Decision at 10, 11.* The moneys were being used in an unlawful way. *Id. at 11.*

96. Contrary to what the WEC suggests that the WEC Complaint offers only a "political argument," the basis of the complaint serves as genuine threat to out-side influences upon local election processes.

97. The Complainants challenge through this appeal, the WEC's decision regarding it finding the underlying WEC Complaint as having no probable cause to establish a violation under the Elections Clause, the Electors Clause, or the Equal Protection Clause of the U.S. Constitution, or *any* Wisconsin election law.

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Count IV

Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving private money to facilitate increased in-person or absentee voting.

98. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

99. Specifically, Wisconsin Statutes § 12.11 on election bribery, in relevant part, prohibits a city from receiving money to facilitate increased in-person or absentee voting.

100. Wisconsin Statutes § 12.11 on election bribery states in relevant part:

> 12.11. Election bribery
> (1) In this section, "anything of value" includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1…
> (1m) Any person who does any of the following violates this chapter:
> (a) Offers, gives, lends or promises to give or lend, or endeavors to procure, anything of value, or any office or employment or any privilege or immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:
> 1. Go to … the polls.
> 2. Vote...

101. Although the word "person" is not defined in Wisconsin Statutes § 12.11, Wisconsin Statutes § 990.01(26) defines "person," generally, to include "bodies politic" which includes municipalities.

102. Although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate (1) because of its contrasts with other states' election-bribery laws and (2) because "induce" must be read to include facilitate in order to save several of § 12.11's exceptions from superfluity.

103. First, contrasting Wisconsin's state law with other states' laws suggest that the Wisconsin legislature, in enacting Wisconsin Statutes § 12.11, chose to enact a prohibition on

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election-bribery that is much broader than what other state legislatures have enacted, and this choice by the Wisconsin legislature supports a broad interpretation of § 12.11.

104. For example, Alabama's, Arizona's and California's laws are narrower than Wisconsin's election bribery law in that Wisconsin's law prohibits private money being received to induce people to "go to the polls." First, Alabama law prevents bribery to influence how an elector votes, but not whether an elector goes to a poll:

> (e) Any person who buys or offers to buy any vote of any qualified elector at any municipal election by the payment of money or the promise to pay the same at any future time or by the gift of intoxicating liquors or other valuable thing shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than $50.00 nor more than $100.00.
>
> (f) Any person who by bribery or offering to bribe or by any other corrupt means attempts to influence any elector in giving his vote in a municipal election or to deter him from giving the same or to disturb or to hinder him in the full exercise of the right of suffrage at any municipal election must, on conviction, be fined not less than $50.00 nor more than $500.00.
>
> (g) Any person who, by the offer of money or the gift of money or by the gift of intoxicating liquor or other valuable thing to any qualified elector at any municipal election or by the loan of money to such elector with the intent that the same shall not be repaid, attempts to influence the vote of such elector at such election, shall be guilty of a misdemeanor and, on conviction, shall be fined not less than $50.00 nor more than $500.00.

105. Ala. Code § 11-46-68(e)-(g). Second, although Arizona law prohibits "directly or indirectly" influencing how an elector votes, Arizona's election-bribery law doesn't mention polling places, let alone influencing whether an elector goes to a polling place:

> A. It is unlawful for a person knowingly by force, threats, menaces, bribery or any corrupt means, either directly or indirectly:
>
> 1. To attempt to influence an elector in casting his vote or to deter him from casting his vote.
>
> 2. To attempt to awe, restrain, hinder or disturb an elector in the free exercise of the right of suffrage.
>
> 3. To defraud an elector by deceiving and causing him to vote for a different person for an office or for a different measure than he intended or desired to vote for.

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B. A person who violates any provision of this section is guilty of a class 5 felony.

106. Ariz. Rev. Stat. Ann. § 16-1006. Third, California law prohibits bribes "to … [i]nduce any voter to … [r]emain away from the polls at an election," but not to *attend* the polls:

> Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:
>
> (a) *Induce any voter to*:
>
> (1) Refrain from voting at any election.
>
> (2) Vote or refrain from voting at an election for any particular person or measure.
>
> (3) *Remain away from the polls at an election*.
>
> (b) *Reward any voter for having*:
>
> (1) Refrained from voting.
>
> (2) Voted for any particular person or measure.
>
> (3) Refrained from voting for any particular person or measure.
>
> (4) *Remained away from the polls at an election*.
>
> Any person or candidate violating this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

Cal. Elec. Code § 18522 (emphasis added).

107. Therefore, Wisconsin's election bribery law is broader than Alabama, Arizona and California laws because Wisconsin Statutes § 1211 prohibits election bribery for increasing "going to the polls." Unlike these other states, Wisconsin law prohibits election bribery to increase "going to the polls."

108. In conclusion, in light of this comparison with other state laws, although the word "induce" is not defined in Wisconsin Statutes § 12.11, the word "induce" in § 12.11 should be interpreted broadly to include facilitate.

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109. Second, the surplusage canon is a traditional common-law rule of statutory interpretation according to which a court should try to give meaning to every provision of a law, and, indeed, to every word of a law. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 26, at 174-76 (2012).

110. Wisconsin courts apply this rule, *e.g.*, *Tetra Tech EC, Inc. v. Wisconsin Dep't of Revenue*, 2018 WI 75, ¶ 100, 914 N.W.2d 21, 60, and the rule disfavors interpreting one provision of a law so as to render another provision superfluous: "More frequently, however, this canon prevents not the total disregard of a provision, but instead an interpretation that renders it pointless," Scalia & Garner, *supra*, § 26, at 176.

111. Section 12.11 contains several exceptions, Wis. Stat. § 12.11(3), and at least two of these exceptions would be superfluous unless "induce" in § 12.11(1m)(a) is read to include *facilitate*:

> (c) This section does not apply where an employer agrees that all or part of election day be given to its employees as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employees.
>
> (d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

Wis. Stat. § 12.11(3)(c)-(d).

112. An interpretation of § 12.11(1m)(a) that doesn't generally prohibit giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome "renders [these exceptions] pointless." Scalia & Garner, *supra*, § 26, at 176. Unless § 12.11(1m)(a) prohibits giving a person something of value to make voting or attending the polls easier, more convenient, or less burdensome, there is no point to

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excepting from § 12.11's scope the gift of paid time off or a trip in a car so that a person can vote at the polls.

113. And if, absent these exceptions, paid time off or a trip in a car would violate § 12.11(1m)(a)'s prohibition on giving a person something to induce a voter to go to a polling place, then CTCL's gifts to facilitate voters going to polling places violated § 12.11(1m)(a). The purpose of CTCL's gifts was to facilitate voters voting at the polls and thus to "induce" voters to "[g]o to … the polls" within the meaning of § 12.11(1m)(a).

114. Furthermore, any exception for what CTCL did is conspicuously absent from § 12.11. So the negative-implication canon (*expressio unius est exclusio alterius*), according to which exceptions are read to be exclusive, applies here. *See* Scalia & Garner, *supra*, § 10, at 107-111.

115. Like other rules of interpretation, the surplusage canon is not absolute because some laws do, in fact, include redundant terms or provisions, Scalia & Garner, *supra*, § 26, at 176-77, and the Wisconsin Supreme Court has recognized this, *e.g.*, *Town of Rib Mountain v. Marathon Cty.*, 2019 WI 50, ¶ 15, 926 N.W.2d 731, 737-38 (citing several cases and Scalia & Garner, *supra*, § 26, at 176). Indeed, redundancy is actually common in legal writing because of the frequent use of synonym strings. Scalia & Garner, *supra*, § 26, at 177.

116. But failing to read "induce" in § 12.11(1m)(a) to include *facilitate* renders superfluous at least two entire separately lettered and carefully written exceptions, Wis. Stat. § 12.11(3)(c)-(d), not merely a term or a few terms in a list. So, the surplusage canon applies here with such force that it is determinative.

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117. In conclusion, failure to apply the surplusage canon amount would amount to a judicial rewrite of § 12.11 through an interpretation that effectively strikes multiple provisions of the section even though a plausible alternative interpretation would preserve those provisions by giving them a purpose. *See* Scalia & Garner, *supra*, § 26, at 174 ("The surplusage canon holds that it is no more the court's function to revise by subtraction than by addition.").

118. Accordingly, in relevant part, Wisconsin Statutes § 12.11 requires three elements for a municipality and its officials to engage in "election bribery": (1) the definition of "anything of value" must be met; (2) the "anything of value" is received by a municipality or its election officials; and (3) the municipality must receive the "anything of value" in order to facilitate electors to go to the polls or to facilitate electors to vote absentee.

119. With respect to the first element, Wisconsin Statutes § 12.11 provides a definition for "anything of value" which must be met: "Includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds $1. Statute also applies to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message."

120. The first element is satisfied because the Respondents and their City accepted money—"anything of value"—from Center for Tech and Civic Life.

121. With respect to the second element, Wisconsin Statutes § 12.11 requires that the anything of value is received by a "person" which is legally defined to include municipalities. Although the word "person" is not defined in Wisconsin Statutes § 12.11,

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Wisconsin Statutes § 990.01(26) defines "person", generally, to include "bodies politic" which includes municipalities.

122. The second element is satisfied because the Respondents and their City received the money—as a "person"—from Center for Tech and Civic Life.

123. With respect to the third element, the city must receive the "anything of value" in order to facilitate increased in-person or absentee voting.

124. The third element is satisfied because the Respondent and their City received CTCL's private money to facilitate increased in-person and absentee voting.

125. Additionally, the Respondents as individuals were the city's employees-agents who aided and abetted in the Respondents and city's election bribery violations.

126. Therefore, the Respondents and their City engaged in prohibited election bribery under Wisconsin Statutes § 12.11.

127. The Respondents' and their City's conduct must be declared to have violated the prohibition on election bribery under Wisconsin Statutes § 12.11.

128. Additionally, the Respondents and their City must be enjoined from engaging in prohibited election bribery under Wisconsin Statutes § 12.11 in the 2022 election and future elections.

Count V

The Respondents' election bribery violation of Wisconsin Statutes § 12.11 is a violation of the federal Electors, Elections and Equal Protection Clauses because it is a substantial departure from the Wisconsin legislature's election laws.

129. All allegations and referenced documents constituting the WEC record as generally outlined above are reinstated to support this claim.

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130. The U.S. Constitution's Elections Clause in Article I and Electors Clause in Article II authorize the Wisconsin state legislature to enact laws regulating municipalities and municipal election officials' conduct in federal elections.

131. It is a violation of the Elections Clause and Electors Clause for municipalities and municipal officials to engage in substantial departures from the state election law regarding federal elections.

132. Under the Elections Clause and Electors Clause, municipalities must strictly adhere to state law.

133. It is a violation of the federal Equal Protection Clause for municipalities and municipal officials to target sub-populations to facilitate increased in-person and absentee voting.

134. Under the Equal Protection Clause, the municipality must treat every voter the same in an election.

135. The Wisconsin legislature enacted Wisconsin Statutes § 12.11 to prohibit municipalities and municipal election officials from engaging in election bribery as defined in Wisconsin Statutes § 12.11.

136. As detailed above, in the 2020 election, Respondents and their city engaged in prohibited election bribery as defined in Wisconsin Statutes § 12.11.

137. The Respondents' and their city's illegal activity, violating Wisconsin Statutes § 12.11, was a substantial departure from Wisconsin's state legislative scheme.

138. Because it was a substantial departure from Wisconsin's state legislative scheme for federal elections, it was a violation of the Elections Clause and Electors Clause.

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139. The Respondents and their City violated the Elections Clause and Electors Clause.

140. Because the Respondents and their city targeted sub-populations to facilitate increased in-person and absentee voting, the federal Equal Protection Clause was violated.

141. The Respondents' and their City's conduct must be declared to have violated the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause.

142. Additionally, the Respondents and their City must be enjoined under the U.S. Constitution's Elections Clause, Electors Clause and Equal Protection Clause from engaging in statutorily-prohibited election bribery in the 2022 election and future elections.

Prayer for Relief

The Complainants pray that the Court provide the following relief authorized under Wisconsin Statutes § 5.06 (9):

(1) The Court should reverse the WEC's determination that the underlying WEC Complaint was not sufficient to find probable cause.

(2) The Court should, based on the record, make findings of facts and determine factual matters because the Commission failed to do so after the Plaintiffs had properly presented undisputed factual matters to the Commission for its consideration:

- Whether the city accepted Center for Tech and Civic Life's private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the Wisconsin Safe Voting Plan, which contains conditions to facilitate increased in-person and absentee voting in targeted populations of city, was a part of an agreement between Center for Tech and Civic Life and the city where Center for Tech and Civic Life gave the city money to facilitate increased in-person and absentee voting in targeted populations of city.
- Whether the city, in fact, facilitated increased in-person and absentee voting in targeted populations of city.

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(3) The Court should summarily hear the following contested issues of law as follows:

- Whether the city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- Whether the WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law and are void as illegal or against public policy.
- Whether the city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(4) The Court should determine all contested issues of law as follows:

- The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violated federal or state law or both.
- The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted populations of city, violated federal or state law or both, and are void as illegal or as against public policy.
- The city's facilitation of increased in-person and absentee voting in targeted populations of the city violated federal law or state law or both.

(5) The Court should reverse and modify the decision of the Commission as follows:

- The decision of the commission is reversed.
- The decision of the commission is modified as follows:

    i. The city's acceptance of CTCL private money on the conditions to facilitate increased in-person and absentee voting in targeted populations of city violates federal and state law.
    ii. The WSVP's conditions to facilitate increased in-person and absentee voting in targeted populations of city, which were a part of an agreement between CTCL and the city where CTCL gave the city money to facilitate increased in-person and absentee voting in targeted

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populations of city, violates federal and state law, and are void as illegal and against public policy.

iii. The city's facilitation of increased in-person and absentee voting in targeted populations of the city violates federal law and state law.

Dated: January 6, 2022.

/s/Erick G. Kaardal
Erick G. Kaardal, 1035141
Gregory M. Erickson, 1050298
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
Telephone: (612) 341-1074
Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Email: erickson@mklaw.com
Attorney for the Plaintiffs

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DeWitt LLP Law Firm

Direct line: 608-252-9326
Email: jpa@dewittllp.com

December 8, 2021

VIA EMAIL: kaardal@mklaw.com
Erick G. Kaardal, Esq.
Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402

RE: In the Matter of *Prujansky, et al. v. Wolfe*
Case No. EL 21-29

Dear Mr. Kaardal:

As you know, the law firm of DeWitt LLP ("DeWitt") is retained as special counsel for the Wisconsin Elections Commission ("Commission") with respect to the above-referenced matter. This letter is in response to the Complaint, dated April 21, 2021, which you submitted to the Commission on behalf of your clients, Martin Prujansky, Mary Imhof Prujansky, Kenneth Brown, Brooke Hesse, and Dale Giles (collectively, the "Complainants").

Procedural History

The Complaint, brought pursuant to Wis. Stat. § 5.06, is filed against Meagan Wolfe, Administrator of the Commission; Cory Mason, Mayor of the City of Racine; and Tara Coolidge, Clerk for the City of Racine. Complainants accompanied the Complaint with an Appendix of nearly 400 pages.

By email to all parties dated May 15, 2021, DeWitt established a deadline of June 15, 2021 for Respondents to respond to the Complaint. On June 15, 2021, Respondents Mason and Coolidge filed a joint Verified Response ("Racine Response") and Respondent Wolfe filed both a Response ("Wolfe Response") and a Motion to Dismiss All Claims Against Her, along with a supporting brief.

By email dated June 23, 2021, DeWitt established a deadline of July 28, 2021 for Complainants to reply. On July 28, 2021, Complainants filed a single Memorandum of Law and Appendix in the above-referenced matter and four others (Case Nos. EL 21-24, 21-30, 21-31, and 21-33). Respondents Mason and Coolidge objected to the combined Memorandum of Law and Appendix by letter dated August 11, 2021. By email dated August 12, 2021, DeWitt notified all parties that Complainants' combined Memorandum of Law and Appendix were not accepted and were to be considered stricken from the record in this matter. DeWitt permitted Complainants to file a separate reply for this matter by August 19, 2021.

On August 19, 2021, Complainants filed a separate Reply in the above-referenced matter, along with a lengthy Appendix of 1077 pages. Respondents Mason and Coolidge again objected to the

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Reply by letter dated August 24, 2021, arguing that Complainants failed to file a "separate" reply for this matter and instead ascribed to Respondents Mason and Coolidge actions taken outside of Racine, by officials in other municipalities. By email dated August 30, 2021, DeWitt granted Respondents the opportunity to file a sur-reply brief no later than September 13, 2021, which deadline DeWitt later extended to September 27, 2021 by email dated September 9, 2021. Respondents Mason and Coolidge filed a sur-reply brief on September 27, 2021. Also on September 27, 2021, Respondent Wolfe filed a reply brief in support of her motion to dismiss.

The Commission has reviewed the above-identified Complaint; Respondents' various responses and motions; Complainants' Reply; and Respondents' various sur-reply and reply briefs. The Commission provides the following analysis and decision pursuant to Wis. Stat. § 5.06 and the Delegation of Authority adopted by the Commission in 2018 and most recently amended on February 27, 2020.

In short, the Commission finds that Complainants did not show probable cause to believe that a violation of law or abuse of discretion occurred with regard to the claims asserted in the Complaint.

Complainants' Allegations

The Complaint states that Complainants are all Wisconsin electors residing in Racine, Wisconsin. Complaint, ¶¶ 1-5. No respondent has provided any evidence to contest Complainants' residency.

Complainants allege that, beginning in May and June 2020, "the City of Racine adopted private corporation conditions on the election process affecting state and federal elections." Complaint, p. 2. Specifically, Complainants object to the City of Racine's acceptance of private grants provided by the Center for Tech and Civic Life ("CTCL"), a private non-profit organization headquartered in Chicago, Illinois. Complaint, ¶¶ 17, 26, 32. The Complaint alleges that the CTCL grant money was issued pursuant to a grant application referred to as the "Wisconsin Safe Voting Plan" ("WSVP"). Complaint, ¶¶ 26, 30. The Complaint alleges that CTCL money was accepted by the City of Racine, the City of Green Bay, the City of Kenosha, the City of Milwaukee, and the City of Madison. Complaint, ¶¶ 25-30, 32. The Complaint refers to these five municipalities as the "WI-5" or "Wisconsin Five." Complaint, ¶ 33.

By accepting the CTCL grant money and working with CTCL representatives, Complainants allege that "Racine failed to comply with state laws, including obtaining from the Commission a prior determination of the legality of the private corporate conditions in the election process, and failed to comply with the U.S. Constitution's Elections and Electors Clauses which guarantee the state Legislature the exclusive role in approving Wisconsin's legal conditions relating to federal elections." Complaint, p. 3. *See also* Complaint, ¶¶ 44, 69 (the City of Racine agreed to conditions "contrary to, or in-place of, or in addition to Wisconsin or federal election laws" and unconstitutionally diverted election authority to others, including "private corporations and their employees").

Complainants also argue that the acceptance of the CTCL grant money by the "Wisconsin Five" "affected [Complainants] as a demographic group." Complaint, ¶ 47 ("[W]ith the added private conditions on Racine's election process, the Racine Complainants were within a jurisdictional

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boundary that affected them as a demographic group."). *See also* Complaint ¶ 48 ("[B]y the Wisconsin Five cities contracting with CTCL and allied private corporations, the Wisconsin Five cities chose to favor the Wisconsin Five's demographic groups of urban voters over all other voters in the State of Wisconsin."). In their reply, Complainants went further with this assertion, arguing that "[t]he Wisconsin 5 cities' WSVP provisions violate the Equal Protection Clause because it contains contract provisions picking and choosing among groups of similarly situated voters for improved in-person and absentee voting access." Reply, p. 4.

With respect to Respondent Wolfe, the Complaint alleges that "WEC Administrator Meagan Wolfe … has supported the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions on federal elections without approval by Congress, the state legislature and the Commission." Complaint, ¶ 65. The Complaint generally cites testimony Respondent Wolfe gave on March 31, 2021 before the General Assembly's Campaigns and Elections Committee (although Complainants do not provide any specific quotations from such testimony). In their Reply, Complainants take the position that Respondent Wolfe's "testimony confirms an admission of issuing an unwarranted advisory opinion on a disputed claims when the Commission itself has that sole authority." Reply, p. 86.

The Complaint seeks six essential forms of relief:

- Complainants first request that the Commission "investigate the circumstances and factual allegations asserted in this Complaint regarding the legality of Racine's acts and actions juxtaposed against state and federal election laws to ascertain whether those election laws were violated." Complaint, pp. 4, 21.

- Complainants also ask that the Commission "issue an order requiring the Administrator, City of Racine and its City Clerk to conform their conduct to Wisconsin Statutes and the Election and Electors Clauses, restrain themselves from taking any action inconsistent with Wisconsin Statutes and the Election and Electors Clauses and require them to correct their actions and decisions inconsistent with Wisconsin Statutes and the Election and Electors Clauses—including prohibiting the placement of private corporate conditions on state and federal elections and the involvement of private corporation and their employees in election administration." Complaint, p. 22.

- Complainants request that the "Commission … issue an order declaring that Racine's private conditions on federal elections and engagement of private corporations and their employees in election administration violated state law and federal law." Complaint, p. 22.

- Complainants argue that the Commission should "reiterate that the Administrator may not render a decision without the approval of the Commission related to the legality of any agreement between private corporate entities and municipalities related to imposing private corporate conditions on its elections or related to private corporations and their employees being engaged in the administration of election laws." Complaint, pp. 22-23. *See also* Complaint, p. 4.

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- Complainants ask that the Commission consider "direct[ing] to the proper local or state authorities" "any further prosecutorial investigation." Complaint, pp. 5, 23.

- "Finally, if the Commission determines that election laws were violated or that the law is unclear to provide the Commission itself with the ability to determine the legalities of private corporate conditions directly or indirectly affecting the election process and administration," Complainants ask that "the Commission … make recommendations to the State Legislature for changes to state election laws to ensure the future integrity of the election process." Complaint, pp. 5, 23.

Respondents' Asserted Defenses to Complaint

None of Respondents dispute the essential fact that the City of Racine accepted and received the CTCL grant money.

Respondents Mason and Coolidge assert several defenses to the Complaint, including the following:

- "Complainants fail to identify any law that prohibits a municipal government's acceptance of outside funds in order to provide a safer voting experience for its electorate or identify any law they claim was violated." Racine Response, p. 2. Respondents Mason and Coolidge argue that "[t]he Legislature has acknowledged that current law includes no such provision [prohibiting municipalities from using private grant funds] by its ongoing attempts to enact such a law." *Id.* (citing 2021 Wis. S.B. 207 and 2021 Wis. A.B. 173).

- "[M]ore than 200 cities, villages, towns, and counties in Wisconsin received COVID-19 response grants from CTCL. The hundreds of diverse municipalities and governmental entities to have received CTCL COVID-19 response grants are situated all over Wisconsin." Racine Response, p. 3. Complainants do not contest this fact, although, in their reply, they cite reports from two non-profit organizations contending that "large cities" received the majority of CTCL funds. *See* Reply, p. 8.

- "The Complaint is not timely." Answer, p. 4. *See also* Answer, pp. 5-13.

- The Complaint "does not set forth facts establishing probable cause to believe that any violation of law has occurred." Answer p. 4. *See also* Answer, pp. 14-16.
- Respondents Mason and Coolidge "are not the proper parties to this Complaint…." Racine Response, p. 14. This argument is presented as follows: "[A]ll of Complainants' legal arguments center around the acceptance of the CTCL grant funds and approval of how those funds were to be used. Neither the Mayor nor the City Clerk, in any of their professional capacities, had authority to accept the grant on behalf of the City of Racine. The Common Council took that action in the name of the City of Racine, yet the City is not named as a party. The named Respondents are not synonymous with the entire City government. [T]hey have specific roles within it, and those roles do not include authority to accept the CTCL grant funds." Racine Response, p. 14. In their sur-reply brief,

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Respondents Mason and Coolidge further allege that Mr. Mason, as Mayor, is not an election official. Sur-Reply, p. 4.

- "Complainants would have the Commission exceed its statutory authority by creating new election laws—essentially usurping legislative authority to do so." Racine Response, p. 22.

In her Response to the Complaint, Respondent Wolfe admits that she gave legislative hearing testimony before the General Assembly's Campaigns and Elections Committee on March 31, 2021. Wolfe Response, pp. 1-2. However, Respondent Wolfe asserts several defenses to the Complaint, including the following:

- Respondent Wolfe argues that the mere act of testifying before a legislative committee cannot be unlawful. Brief in Support of Motion to Dismiss, p. 9 (citing Wis. Stat. § 13.35(1)).

- Respondent Wolfe argues that her "legislative testimony on March 31, 2021 cannot possibly have contributed to any illegality in the conduct of the 2020 Presidential election, which had already taken place more than three months earlier." Brief in Support of Motion to Dismiss, p. 10 n.3.

- Respondent Wolfe alleges that, in her legislative hearing testimony, she declined to comment on the lawfulness of the municipalities' actions, stating: "I cannot offer my opinion or speculation on actions of individual municipalities. … It would be outside of my statutory or delegated authority to determine if a municipality has acted lawfully." Brief in Support of Motion to Dismiss, p. 10 n.3. Complainants did not contest the accuracy of this quotation.

- Respondent Wolfe alleges that she "did not make any determinations as to (1) the legality of actions or communications by municipal officials related to municipal acceptance or use of private grant funds; or (2) any relations between municipals officials and outside consultants." Wolfe Response, p. 32.

- Respondent Wolfe denies "that she has engaged in, supported, or endorsed any activities contrary to federal law, state law, or directives of the Commission." Wolfe Response, p. 34. She asserts that, despite Complainants' allegations that she "publicly supported" the decision to accept grant funding (Complaint, p. 2 and ¶ 65), Complainants failed to back their assertions with actual facts: "[T]he Complaints do not identify any actual actions through which she purportedly provided such public support, other than legislative committee testimony that she gave almost five months after the 2020 election had taken place, and even longer after the municipalities had received and used the funds in question. Nor do they allege any facts concerning any non-public actions by the Administrator." Reply Brief in Support of Motion to Dismiss, p. 3.

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Commission Authority and Role in Resolving Complaints Under Wis. Stat. § 5.06

The Commission's role in resolving complaints filed under Wis. Stat. § 5.06 is to determine whether an election official acted contrary to applicable election laws or abused their discretion in administering applicable election laws. *See* Wis. Stat. § 5.06(1) ("Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act … is contrary to law, or the official has abused the discretion vested in him or her by law …, the elector may file a written sworn complaint with the commission….").

The Commission has the inherent, general, and specific authority to consider the submissions of the parties to a complaint and summarily decide the issues raised. *See* Wis. Stat. § 5.06(6) ("The commission may, after such investigation as it deems appropriate, summarily decide the matter before it….").

Here, the essential fact underlying all of Complainants' allegations – the City of Racine's acceptance of CTCL grant funds – is undisputed. As described below, the Commission concludes that this essential fact fails to give rise to probable cause to find that Respondents committed a violation of law or abuse of discretion. Therefore, the Commission issues this letter, which serves as the Commission's final decision regarding the issues raised in the Complaint.

Commission Findings

A. There Is No Probable Cause To Find That Respondents Committed A Violation Of Law Or An Abuse Of Discretion.

Under Wis. Stat. § 5.06(1), a "complaint 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." 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." "Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have occurred and who are the witnesses to the events." Wis. Admin. Code EL § 20.03(3).

Complainants, therefore, have the obligation to set forth sufficient facts to show probable cause to believe that Respondents Mason and Coolidge committed a violation of law or abuse of discretion as a result of the City of Racine's acceptance of CTCL grant money, which allegedly resulted in the adoption of "private corporation conditions on the election process" and the "involvement of private corporations in … election administration."
Complainants also have the obligation to set forth sufficient facts to show probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion as a result of allegedly supporting "the Wisconsin Five cities' claimed prerogative to adopt private corporate conditions."

The Commission concludes that Complainants have not set forth sufficient facts to show probable cause as required under Wis. Stat. § 5.06(1), for the reasons discussed below.

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i. The Acceptance of Private Grant Money, With Or Without Conditions And Consultant Involvement, Is Not Prohibited By Any Law The Commission Administers.

This is not the first complaint the Commission has received related to the CTCL grant money. On August 28, 2020, another complaint was filed in Case No. 20-18 asserting that several respondents (including Cory Mason and Tara Coolidge, who are Respondents in this action) acted contrary to law and/or abused their discretion as a result of acceptance of the CTCL money. The Commission concluded, in part, that the complaint did not state probable cause because "the complaint does not allege any violations of election law that the Commission has authority over to enforce or investigate."

The Commission has "the responsibility for the administration of chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing." Wis. Stat. § 5.05(1). *See also* Wis. Stat. § 5.05(2w). A complaint under Wis. Stat. § 5.06(1) must therefore assert a violation of one of these chapters of the Wisconsin Statutes, or "other laws relating to elections and election campaigns."

The Complaint in this matter cites Wis. Stat. § 7.15(1), the Elections Clause of the United States Constitution, and the Electors Clause of the United States Constitution as the basis for Complainants' action. In their Reply, Complainants also referenced the Equal Protection Clause.

Respondents argue that none of these statutory or constitutional provisions explicitly prohibit the acceptance of private grant monies or the use of outside consultants. Respondents are correct.

Wis. Stat. § 7.15(1) states that municipal clerks have "charge and supervision of elections and registration in [each] municipality." The municipal clerk "shall perform" certain duties specified in subsections (a) through (k) of the statute, as well as "any others which may be necessary to properly conduct elections or registration." Wis. Stat. § 7.15(1). There is no language in section 7.15(1) that prohibits municipal clerks from using private grant money or working with outside consultants in the performance of their duties.

The Elections Clause of the U.S. Constitution states as follows:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

U.S. Const., art. I, § 4, cl. 1 (cited at Complaint, ¶ 12).

The Electors Clause of the U.S. Constitution provides:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

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U.S. Const., art. II, § 1, cl. 2 (cited at Complaint, ¶ 13).

Complainants argue that the Elections and Electors Clauses "provide no power to municipal governments to adopt private corporate conditions on federal elections or to introduce private corporations and their employees into federal election administration." Complaint, ¶ 14. However, Complainants do not show that either the Elections Clause or the Electors Clause of the U.S. Constitution *prohibit* the adoption of private corporate conditions or the introduction of private corporation employees into the election process.

As Respondents Mason and Coolidge note in their Response, two bills introduced in March 2021 demonstrate the absence, in existing law, of any prohibition on the acceptance of private grant money or the use of outside consultants. 2021 Senate Bill 207 and 2021 Assembly Bill 173 would prohibit any official from "apply[ing] for or accept[ing] any donation or grant of private resources" (including "moneys, equipment, materials, or personnel provided by any individual or nongovernmental entity") "for purposes of election administration." The bill would also prohibit the appointment of any poll worker who is an employee of an "issue advocacy group." This language is not currently in any Wisconsin statute; nor was it in the lead up to the November 2020 election.

Furthermore, a number of courts around the country have remarked upon whether the U.S. Constitution or federal election law prohibits the activities to which Complainants are objecting in this action. These courts have not found such prohibitions in the U.S. Constitution or federal laws.

For example, the United States District Court for the Eastern District of Wisconsin previously concluded that a group of plaintiffs (represented by the same attorney as is currently representing Complainants in this matter) failed to show a reasonable likelihood of success on the merits of a claim based upon similar allegations. In *Wisconsin Voters Alliance v. City of Racine,* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020), the plaintiffs alleged that various cities (including the City of Racine) were prohibited from accepting and using private federal election grants by, among other things, the Elections Clause of the U.S. Constitution. The court declined to grant a temporary restraining order, stating:

> Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but **the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.** Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance.

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2020 WL 6129510, at *2, *appeal dismissed sub nom. Wisconsin Voters All. v. City of Racine*, No. 20-3002, 2020 WL 9254456 (7th Cir. Nov. 6, 2020) (emphasis added) (internal citations omitted).

Other courts have likewise concluded that no language in the U.S. Constitution or other election-related laws prohibits municipalities from accepting private grant money. *See Election Integrity Fund v. City of Lansing*, No. 1:20-CV-950, 2020 WL 6605985, at *1 (W.D. Mich. Oct. 2, 2020) ("Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists.") (denying motion for temporary restraining order); *Iowa Voter All. v. Black Hawk Cty.*, No. C20-2078-LTS, 2020 WL 6151559, at *3-4 (N.D. Iowa Oct. 20, 2020) ("Plaintiffs have not provided any authority, nor have I found any, suggesting that the Elections Clause imposes specific limits or restrictions as to how a federal election must be funded. … There may be valid policy reasons to restrict or regulate the use of private grants to fund elections. However, it is for Congress and/or the Iowa Legislature, not the judicial branch, to make those policy judgments."); *Georgia Voter All. v. Fulton Cty.*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020) ("Fulton County's acceptance of private funds, standing alone, does not impede Georgia's duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.").

The Commission is persuaded by the case law cited above. Complainants have failed to identify any existing state or federal law prohibiting the acceptance of the CTCL grant money or work with outside consultants. Multiple federal courts have failed to find that existing law prohibits such activities, and the Commission likewise does not find such a prohibition to exist.

Unable to cite an explicit prohibition in existing law, Complainants attempt to save their claims with a different argument. Citing *Trump v. Wisconsin Elections Commission ("Trump v. WEC")*, 983 F.3d 919, 927 (7th Cir. 2020), Complainants argue that Respondents violated the Electors Clause by committing a "diversion of … election law authority" when they accepted the CTCL grant money. *See* Complaint, ¶¶ 71-72. However, this citation works against Complainants, not for them.

The *Trump v. WEC* case concerned contested guidance issued by the Commission prior to the election. In its decision, the United States Court of Appeals for the Seventh Circuit examined the scope of the Electors Clause. "By its terms," the court noted, "the Clause could be read as addressing only the manner of appointing electors and thus nothing about the law that governs the administration of an election (polling place operations, voting procedures, vote tallying, and the like)." 983 F.3d at 926. The court acknowledged, however, that the Electors Clause has been applied more broadly in some instances to "encompass[] acts necessarily antecedent and subsidiary to the method for appointing electors—in short, Wisconsin's conduct of its general election." *Id.*

As examples of the Electors Clause being applied broadly, the court cited both *Bush v. Gore*, 531 U.S. 98 (2000) and *Carson v. Simon*, 978 F.3d 1051 (8th Cir. 2020). In those two cases, courts found violations of the Electors Clause where state actors invaded the province of the legislature *without being granted such authority by the legislature*.

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In *Bush v. Gore*, for example, three Justices were critical of a departure from the legislative scheme put in place by the Florida legislature, finding that it violated "a respect for the constitutionally prescribed role of state *legislatures.*" 531 U.S. at 115 (Rehnquist, C.J., concurring) (emphasis original). In *Carson*, the Eighth Circuit concluded that the Minnesota Secretary of State likely violated the Electors Clause by adding a week to the deadline for receipt of absentee ballots. The court remarked that "only the Minnesota Legislature, and not the Secretary, has plenary authority to establish the manner of conducting the presidential election in Minnesota. … Thus, the Secretary's attempt to re-write the laws governing the deadlines for mail-in ballots in the 2020 Minnesota presidential election is invalid." 978 F.3d at 1060.

This line of authority does not support Complainants' position because it is distinguishable from the circumstances now before the Commission. The Seventh Circuit explains the distinction in *Trump v. WEC*. The court remarked that – unlike in *Bush v. Gore* or *Carson* – the Commission had taken actions "under color of authority expressly granted to it by the Legislature." 983 F.3d at 927. Accordingly, "even on a broad reading of the Electors clause," the court could not find that the Commission acted unlawfully. *Id.* The "authority expressly granted to [The Commission] by the Legislature … is not diminished by allegations that the Commission erred in its exercise." *Id.*

Here, as in *Trump v. WEC*, the acceptance and use of CTCL funds was done "under color of authority expressly granted … by the Legislature" for the charge and supervision of elections under Wis. Stat. § 7.15(1). Even if there were errors in the exercise of that authority, those errors do not diminish the authority and do not give rise to a violation of the Electors Clause.

Finally, Complainants attempt to assert a violation of the Equal Protection Clause. However, courts around the country considering similar claims have cast aspersions on the argument that acceptance of CTCL money results in a violation of equal protection law. A federal court in Minnesota, for example, rejected that argument as follows:

> **The City's actions in applying for and accepting the CTCL grant and using the grant money to improve all manners of voting in Minneapolis in the 2020 election affect all Minneapolis voters equally. All individual Plaintiffs are Minneapolis voters.** Plaintiffs fail to explain how they will be uniquely affected by Minneapolis's actions. They assert that, because Minneapolis voters are statistically more likely to be progressive, Minneapolis's actions enhancing voting in general favor progressive voters and thereby suppress Plaintiffs' votes. However, **as Minneapolis residents, Plaintiffs, themselves, are equal recipients of Minneapolis's actions to make voting safer during the pandemic.** The City's grant-funded expenditures will make it easier for the individual Plaintiffs to vote safely for the candidates of their choosing and to have those ballots processed promptly, no matter which method of casting a ballot they choose. Grant money will be used to assist with mail-in voting; voting by absentee ballots via a secure drop box; voting in person at early-voting sites; voting in-person on Election Day; and voter education to assist voters in choosing how to vote.

Minnesota Voters All. v. City of Minneapolis, No. CV 20-2049 (MJD/TNL), 2020 WL 6119937, at *7 (D. Minn. Oct. 16, 2020) (emphasis added).

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Once again, the Commission finds this case law persuasive. Although use of the CTCL grant money in Racine may have resulted in benefit to Racine voters over those outside of Racine, and although voters within Racine may have the tendency to favor a particular political party over another, that does not constitute an equal protection violation. *See Texas Voters All. v. Dallas Cty.*, 495 F. Supp. 3d 441, 469 (E.D. Tex. 2020) ("Ultimately, Plaintiffs' complain that people with different political views will lawfully exercise their fundamental right to vote. That is not a harm. That is democracy."). This is particularly true where other municipalities were free to seek the same grant money as did the City of Racine. In fact, it is undisputed that over 200 municipalities in Wisconsin received such funding.

In an attempt to bolster their equal protection argument in their Reply, Complainants point to language in the WSVP to argue that the CTCL grant money was used to disproportionately benefit certain voters from within the City of Racine, to the disadvantage of others. However, the WSVP was, as Complainants state, merely the grant application. Complainants provide no facts showing that the CTCL grant money was, in fact, used to disadvantage certain segments of the electorate over others. Absent such facts, Complainants fail to raise probable cause of a potential equal protection violation. As the Eastern District of Wisconsin stated when dismissing the *Wisconsin Voters Alliance* suit:

> Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek.

Wisconsin Voters All. v. City of Racine, No. 20-C-1487, 2021 WL 179166, at *3 (E.D. Wis. Jan. 19, 2021).

In the absence of existing state or federal law prohibiting the acceptance of private grant money or the use of outside consultants, the Commission cannot find a violation of law or abuse of discretion resulting from the CTCL grant money in the City of Racine. To do so would be to essentially create new election law, which is the job of the legislature, not the Commission.

Complainants urge the Commission to act notwithstanding the absence of explicit legal authority, asserting that "the Commission is not impotent" and has been provided by the legislature "with an arsenal of weapons to exercise its powers and duties." Reply, p. 48. Specifically, Complainants cite the Commission's statutory authority to administer laws, investigate, take testimony, bring civil actions, and sue for injunctive relief. *Id.* This is all true, but Complainants do not and cannot argue that the Commission has the authority to ***create*** law. That is undeniably the province of the legislature.

For all of the above reasons, the Commission finds that there is no probable cause to believe that the acceptance of CTCL grant money was itself or resulted in any violation of law or abuse of discretion.

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ii. There Is No Probable Cause To Find A Violation Or Abuse Of Discretion By Respondent Wolfe.

Complainants also fail to state facts sufficient to raise probable cause to believe that Respondent Wolfe committed a violation of law or abuse of discretion, for multiple reasons.

First, although Complainants assert that Respondent Wolfe supported the City of Racine's decision to accept the CTCL grant funding, Complainants fail to identify any specific action or statement on the part of Respondent Wolfe in which she allegedly provided such support. The Commission does not know with whom Respondent Wolfe allegedly communicated, what Respondent Wolfe allegedly did, what Respondent Wolfe allegedly stated, or any of the context for such details. Without such information, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe violated the law or abused her discretion. *See* Wis. Admin. Code EL § 20.02(4).

Second, the Commission rejects Complainants' argument (asserted for the first time in their Reply) that Respondent Wolfe issued an unauthorized advisory opinion. Again, Complainants fail to state any actual facts underlying that assertion. Advisory opinions are governed by clear statutory procedures set forth in Wis. Stat. § 5.05(6a)(a). Such opinions must be requested "in writing, electronically, or by telephone" – and there is no allegation that such a request was made. Such opinions must be "written or electronic" – and there is no allegation that Respondent Wolfe issued any physical or electronic writing. Advisory opinions, "[t]o have legal force and effect," must "include a citation to each statute or other law and each case or common law authority upon which the opinion is based" – and there is no allegation that Respondent Wolfe ever provided such citations. Again, given Complainants' allegations, the Commission finds that "a reasonable, prudent person, acting with caution" could not find that Respondent Wolfe issued any unauthorized advisory opinions.

iii. The Commission Need Not Determine The Remaining Issues Raised By Respondents.

In light of its conclusion that there is no probable cause to find that the acceptance of the CTCL grant money violated election law or constituted an abuse of discretion, the Commission need not address Respondents' other defenses, including those concerning timeliness, whether the Mayor is an election official, and whether the Mayor and City Clerk are even proper parties to an action that relates to grant money accepted by the Common Council of the City of Racine.

Commission Decision

Based upon the above review and analysis, the Commission finds that the Complaint does not raise probable cause to believe that a violation of law or abuse of discretion has occurred. All claims are hereby dismissed. The Commission will not conduct its own investigation of the circumstances and factual allegations asserted in the Complaint and will not issue an order with the declarations Complainants have requested.

The Commission notes that Complainants also asked that the Commission direct "any further prosecutorial investigation … to the proper local or state authorities" and "make recommendations

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to the State Legislature for changes to state election laws." Complaint, p. 23. The Commission will not provide either of these forms of relief, both because Complainants failed to establish probable cause and because they are not available forms of relief under Wis. Stat. § 5.06.

A party filing a complainant under Wis. Stat. § 5.06 may only request – and the Commission may only order – that officials be required to conform their conduct to the law, be restrained from taking action inconsistent with the law, or be required to correct any action or decision inconsistent with the law or any abuse of their discretion. *See* Wis. Stat. § 5.06(1) and (6). Referring matters for prosecution and making recommendation to the legislature are not options for relief under section 5.06.

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.

Sincerely,

COMMISSION

By: Jon P. Axelrod
and Deborah C. Meiners
Special Counsel

JPA:sd

cc: Commission Members
Scott R. Letteney, Esq.
Thomas C. Bellavia, Esq.
Steven C. Kilpatrick, Esq.

AMERICAN OVERSIGHT

From: Jay Valentine <Jay@contingencysales.com>
Sent: Tuesday, January 18, 2022, 2:22 PM
To: "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>
Subject: Re: Campaigns and Elections Committee 1/19/22 Zoom Link

---

I am reviewing my findings in the report and will not be using Powerpoint.

I plan to spend about 15 – 20 minutes reviewing the key findings in the report, demonstrate why they are not best practices, demonstrate why someone would use them if they were trying to hinder citizen voter roll access.

I will share my screen two times at most where I show the exhibit in the most recent report.

Let me know if that works for you.

Jay

From: "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>
Date: Tuesday, January 18, 2022 at 2:18 PM
To: Jay Valentine <Jay@contingencysales.com>
Subject: RE: Campaigns and Elections Committee 1/19/22 Zoom Link

Please send me your PowerPoint or other presentation materials as soon as you can.

Thank you!

From: Rep.Brandtjen <Rep.Brandtjen@legis.wisconsin.gov>
Sent: Tuesday, January 18, 2022 11:43 AM
To: jay@contingencysales.com
Subject: FW: Campaigns and Elections Committee 1/19/22 Zoom Link

Hi Jay,

Below is the zoom info for tomorrow. The hearing will begin at 1pm and we will begin with you and Jeff.

Please let me know if you have any questions.

Thank you!

Melodie Savidusky
Office of Representative Janel Brandtjen
22nd Assembly District
(608) 267-2367
Sign up for e-updates!

AMERICAN OVERSIGHT

From: McKee, Pat <Pat.McKee@legis.wisconsin.gov>
Sent: Tuesday, January 18, 2022 9:44 AM
To: Savidusky, Melodie <Melodie.Savidusky@legis.wisconsin.gov>
Subject: Campaigns and Elections Committee 1/19/22 Zoom Link

Assembly Sergeant is inviting you to a scheduled Zoom meeting.

Topic: Campaigns and Elections Committee 1/19/22
Time: Jan 19, 2022 12:30 PM Central Time (US and Canada)

Join Zoom Meeting
https://us06web.zoom.us/j/89423669334?pwd=UnFZTmdObzJLdVpMOTRpaHp6RGI1QT09

Meeting ID: 894 2366 9334
Passcode: 729934
One tap mobile
+13017158592,,89423669334# US (Washington DC)
+13126266799,,89423669334# US (Chicago)

Dial by your location
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 646 558 8656 US (New York)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 720 707 2699 US (Denver)
Meeting ID: 894 2366 9334
Find your local number: https://us06web.zoom.us/u/kbrJnnddBH

AMERICAN OVERSIGHT

From: "Smith, Tracy M - DOA" <TracyM.Smith@wisconsin.gov>
Sent: Monday, January 24, 2022, 8:23 AM
To: "Savidusky, Melodie - LEGIS" <melodie.savidusky@legis.wisconsin.gov>
Cc: "Michiels, Carly - DOA" <carly.michiels@wisconsin.gov>; "Hwang, Olivia C - DOA" <oliviac.hwang@wisconsin.gov>
Subject: RE: records request to DOA
Attachments: Duesterbeck 9793 Response 1-24-22.pdf; Responsive Records.zip

Dear Ms. Duesterbeck:

Please see the attached response to your public records request.

Thank you.

Tracy Smith | Paralegal - Confidential
Department of Administration
Division of Legal Services
TracyM.Smith@wisconsin.gov
Direct: (608) 266-2887

From: Smith, Tracy M - DOA <TracyM.Smith@wisconsin.gov>
Sent: Wednesday, November 10, 2021 10:45 AM
To: Duesterbeck, Melodie - LEGIS <Melodie.Duesterbeck@legis.wisconsin.gov>
Subject: records request to DOA

Dear Ms. Duesterbeck,

This email is to acknowledge receipt of your public records request (voicemail attached). We are processing your request and will respond once our work is complete.

Thank you.

Tracy Smith | Paralegal - Confidential
Department of Administration
Division of Legal Services
TracyM.Smith@wisconsin.gov
Direct: (608) 266-2887

AMERICAN OVERSIGHT

From: Patrick Murphy <pccmurphy@aol.com>
Sent: Thursday, January 27, 2022, 10:03 PM
To: "Rep.Brandtjen@legis.wi.gov" <Rep.Brandtjen@legis.wi.gov>
Cc: "albertadarlingwi@gmail.com" <albertadarlingwi@gmail.com>; "rep.vos@legis.wisconsin.gov" <rep.vos@legis.wisconsin.gov>; "kooyenga@gmail.com" <kooyenga@gmail.com>; "sen.stroebel@legis.wisconsin.gov" <sen.stroebel@legis.wisconsin.gov>; "infusino@earthlink.net" <infusino@earthlink.net>; "unison_1@yahoo.com" <unison_1@yahoo.com>; "ninknink346@gmail.com" <ninknink346@gmail.com>; "danielark@gmail.com" <danielark@gmail.com>; "suzanneploof@gmail.com" <suzanneploof@gmail.com>; "mmurphy@hbs.net" <mmurphy@hbs.net>; "murfdog14@hotmail.com" <murfdog14@hotmail.com>
Subject: Re: Voter Integrity

Hi Janel,

Thank you so much for all your hard work in uncovering and conveying to us the fraud that exists in the Wisconsin Electoral System.

Hard to believe that we carry over a half million "eligible" voters who registered over a century ago !!!!

I also found out as you show below that we are using a number system that inherently unable to be audited by humans or computers.
The Wisconsin Election Commission Voter ID database **IS**designed to be impossible to audit.

It has been said by so many that if there was a system like Wisconsin's state voter base in the corporate world, the CEO and CFO "would go to jail".

Why would we apply a lesser standard to voter integrity?

Again, the Wisconsin Election Commission database is "a voting system where nobody can see what (they're) doing with no audit trail of who did what and when they did it".

Maybe we can take a few bucks from this wonderful state surplus and get this dam thing fixed.
So disgraceful.

Your Constituents,

AMERICAN OVERSIGHT

Pat and Carrie Murphy

W178 N5156 Roseway Avenue
Menomonee Falls, WI 53051

cell (262) 501-6332

-----Original Message-----
From: Representative Brandtjen <Rep.Brandtjen@legis.wi.gov>
To: pccmurphy@aol.com
Sent: Thu, Jan 27, 2022 10:34 am
Subject: Bills Passed, C&E Findings & Surplus

Bills Passed in Session

Below are a few bills that passed out of the Assembly this week and I am proud to be the lead author ofthe first two bills listed - AB 829 & AB 114.

Mandatory Minimum Sentence for Retail Theft- AB 829

This bill creates a mandatory minimum sentence to deter habitual offenders from retail theft. Brick and mortar retail stores are already facing increasing pressures due to the changing habits of consumers, the growth of e-commerce, increasing global competition, and of course, the Covid pandemic. Many retail businesses cannot absorb the further losses from theft. Promoting a vibrant retail industry helps to prevent the crime and urban decay that shuttering stores often leave in their wake.

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This bill seeks to punish and deter habitual retail thieves by requiring a minimum, 180-day sentence for an offender's third retail theft conviction.

Boards of Police & Fire Commissioners - AB 114

Being a police officer in a large city is a particularly dangerous job, and Milwaukee and Madison are no different. A positive relationship between law enforcement and the communityis an extremely important aspect of effective policing and is essential for promoting a higher quality of life for both police officers and the community.The vehicle that balances the police and firefighters with the community is the Police and Fire Commission. This bill requires at least oneretired police officer or firefighterto be on each city's commission, giving expertise fromthose who have actually performed the job. It will alsorequire the consideration of all evidence when making a disciplinary decision.

Natural Immunity to COVID-19 – AB 675

If an employer requires an employee to provide proof of a Covid-19 vaccine, or be regularly tested, as a condition of continued employment or an offer of employment, this bill will require the employer to accept documentation proving natural immunity against COVID-19. The documentation can show that the individual tested positive for COVID-19 or show the presence of naturally occurring antibodies in the individual's blood. Check out Ron Johnson's video relating to this issue.

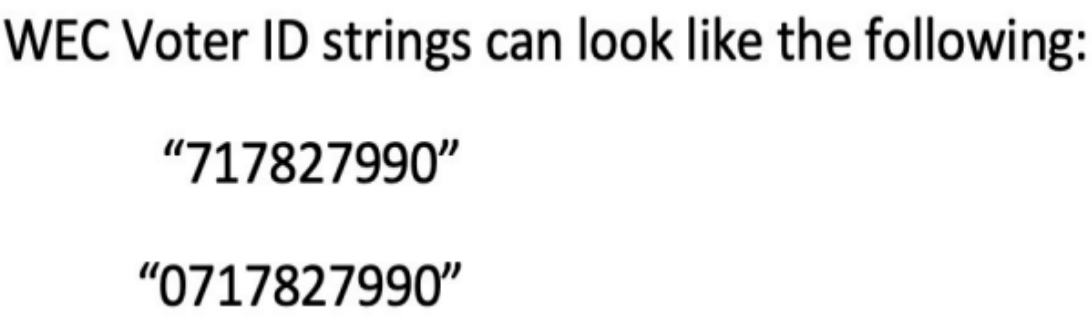
Campaigns &Elections

Last week, the Campaigns & Elections Committee held an informational hearing. Youmay view it on WisconsinEyeand review the hearingmaterials.Here are a few

findings:

According to the Wisconsin Elections Commission's (WEC) data rolls, there are 569,277 registered voters with a January 1, 1918 registration date, which is one out of every 14 voters in the system. 119,283 of these voters are marked as active, and 115,252 of those people voted in November2020.

Another issue discussed was possible duplicate voter registration numbers in WEC's voter rolls. In the example below, these two numbers would be interpreted as the samein most databases, yet WEC claims they are different. Experts found 147,537examples of similar voter IDs, such as this one,that WEC claims to be unique. This can only cause confusion and needs to be addressed.



This week, the Legislative Fiscal Bureau projected a $3.8 billion surplus by the end of the budget cycle in June of 2023. Despite the $58 billion Wisconsin received for federal COVID-19 relief, Governor Evers is claiming responsibility for this surplus. Unfortunately, Governor Evers has full authority over this $58 billion, by law. Republicans passed a budget that permanently cut taxes and spent $3 billion less than Evers' budget, which would have put us in the red. I will do everything I can to manage the current surplus in a fiscally responsive manner.

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Mailing address:
PO Box 8952
Madison, WI 53708

Email:
Rep.Brandtjen@legis.wi.gov

Want to change how you receive these emails?
You can update your preferences or unsubscribe from this list.

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From: "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>
Sent: Wednesday, December 22, 2021, 9:29 AM
To: "Wolfe, Meagan - ELECTIONS" <Meagan.Wolfe@wisconsin.gov>
Cc: "Rep.Rozar" <Rep.Rozar@legis.wisconsin.gov>; "Rep.Tusler" <Rep.Tusler@legis.wisconsin.gov>; "Rep.Sanfelippo" <Rep.Sanfelippo@legis.wisconsin.gov>; "Rep.Thiesfeldt" <Rep.Thiesfeldt@legis.wisconsin.gov>; "Rep.Murphy" <Rep.Murphy@legis.wisconsin.gov>; "Savage, Bill" <Bill.Savage@legis.wisconsin.gov>; "elections@wi.gov" <elections@wi.gov>
Subject: Request for Information (Message to Commissioners)
Attachments: WEC Wolfe 12-22-21.pdf

Dear Ms. Wolfe,

Please see the attached letter and let me know if you have any questions.

Thank you,

Janel Brandtjen
Wisconsin State Representative
22nd Assembly District

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Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984

December 30, 2021

SENT VIA EMAIL

Dear Representative Brandtjen and members of the Assembly Committee on Campaigns and Elections,

Thank you for your recent inquiry regarding the origin, structure, and security of WisVote, the state's voter registration system and voter database. Wisconsin Elections Commission staff have provided answers, explanations and background for each of your questions submitted on December 22, 2021. Below, please find a specific response to each question. The text of your questions is also included with each response for easy reference. Your original request, along with this reply, has also been provided to the six-member Wisconsin Elections Commission.

While we are always happy to provide requested information to the Committee on a timely basis, some of the requests you make will need to be considered by the full Commission. The Chair of the Commission has added this discussion to the January 11, 2021, meeting. Further, in that some of your requests involve statutory issues regarding release of confidential voter information under Wis. Stat. §§ 6.36(1)(b)1.a., 6.47, and Wis. Admin. Code EL § 3.50(8), the Commission will need to consider the options available to fulfil your request. We explain in detail below the quandaries in those cases where they occur and what the options for further follow-up include.

We look forward to working with the Committee on these and any other questions about elections administration in Wisconsin.

Sincerely,

Meagan Wolfe
Administrator
Wisconsin Election Commission

cc: members of the Wisconsin Elections Commission

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

Administrator
Meagan Wolfe

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WI-REP-22-0106-A-000970

Question 1: State Control of Data. *Please confirm that all of the voter identification data (Voter Identification Database) contained within, used or accessed by the Wisconsin statewide voter roll system administered by your agency (Statewide System) is hosted, stored or otherwise resides on a server or servers owned and operated by the Wisconsin Department of Administration (DOA). If the Voter Identification Database is hosted elsewhere, please provide the identity of the host and any and all written or oral agreements between WEC and such host.*

Answer 1: All voter data is hosted, stored, or otherwise resides on servers and systems owned by the State of Wisconsin. The Wisconsin Elections Commission uses the same state-owned data center and services as other state agencies through the Department of Administration's Division of Enterprise Technology. There are no other entities to identify or with whom the WEC holds agreements for data or server hosting.

Question 2: Database Specifications. *Please provide the type, specifications and version of the database software used to contain and manage the data in the Voter Identification Database (such as MySQL, Oracle, etc.) on said servers. Upon receipt of your response, we will expect the ability to: identify the software used to create the Voter Identification Database program, identify who wrote the database program, determine whether the database program was actually built by WEC staff as you declared publicly in the September 8, 2021 Senate hearing ("we actually built it ourselves here in the State of Wisconsin") or whether the database program is actually vendor-supplied database software or components, and that the database software containing over 7 million records of Wisconsin voter data is hosted or otherwise resides securely on DOA servers.*

Answer 2: The State of Wisconsin voter registration program and database, containing all voter registration records and voter history, resides at the state data centers and is securely hosted on DOA servers. The current state-wide voter registration system, known as WisVote, is a system designed, developed, maintained, and secured by the State of Wisconsin. All program development, testing, and security is done by State of Wisconsin employees and employees hired through the state's required IT development services contract, currently with Knowledge Services. It is our understanding that the Committee Chair has made a separate public records request to the Department of Administration for WEC employee and service contract information which will verify this fact. State of Wisconsin agencies use the state IT services contract to hire and maintain IT developers to accomplish their IT needs. The WEC built the WisVote system, and DET hosts the system using the following specifications:

- **Platforms:**
  - Dynamics CRM 365 On Premise (User Interface)
  - SQL Server 2019 Enterprise (Database)
  - Windows Server
  - Red Hat Enterprise Linux 7
  - ASP.NET (Badger Voters)
- **Environments:**
  - PROD
  - UAT
  - DEV
  - MIRROR

- **# of Servers:**
  - Currently 2 production database servers
  - Additional database servers in other environments for testing and redundancy

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  - More than 50 total servers all types – all housed and secured through the Department of Administration

- **Server Application Types:**
  - Azure DevOps
  - Badger Voters
  - Canvass
  - Email Routing
  - Linux Database Servers
  - MyVote
  - PS Management
  - SQL Software Reporting Services
  - User interface
  - Windows Database Servers
  - WisVote Asynchronous Servers
  - WisVote Batch jobs

As it relates to the history of the "Database," development history is a matter of public record and is extensively detailed in public meeting minutes of the SEB, GAB, and WEC. Over the past 20 years Wisconsin's registration system evolved from nothing to the AESM, then to SVRS, and most recently WisVote. The current system, used by the WEC since the creation of the agency, was built by the State of Wisconsin and is not a vendor-based system. The WisVote system is maintained, tested, built, repaired, and secured using state employees and employees hired through the state's Knowledge Services mandatory contract.

Voter Database Timeline

Before the state-wide system

- **2002** - The Federal Help America Vote Act mandates creation of state-wide voter registration systems and allocates funding for states to create them.
- **2003** – The State Elections Board (SEB) begins planning for a state-wide voter registration system.
  - At the time, 13 of 72 counties had legacy voter registration databases – most using Access, Excel, and Word. Some were DOS based and one (Fond du Lac) was Cobalt based.
  - 235 municipalities maintained local databases using 61 different types of software ranging from Microsoft Word to off-the-shelf products.
- **2004** – SEB contracts with Accenture to create a state-wide voter registration system. Development starts.
- **2005** – SEB hires Project and Limited-Term staff to support development of the state-wide voter registration system. SEB contracts with National Business Systems for data entry to import voter data.
  - State law did not require voter registration in municipalities with a population under 5,000 until 2005. Thus, many smaller jurisdictions did not maintain a database until state law changed and until some statewide functions were mandated under HAVA. Therefore, many voter registration records converted from county and municipal legacy systems into the state-wide system did not have a "registration date" associated with them. See our FAQ on this topic (https://elections.wi.gov/node/7516) for more details.

AESM Pilot System

- 2006 – SEB launches AESM (Accenture Election System Manager). This system was version 1.0 of the State-wide Voter Registration System (SVRS). System performance is evaluated as poor by the SEB and Wisconsin clerks.

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- 2007 – SEB and Accenture terminate their contract. Accenture repays the State of Wisconsin $4.0 million and releases all data to the State.

SVRS

- 2008 – GAB hires transitional IS professionals to redevelop and manage the state-wide system, SVRS. It consists of 59 servers in 3 environments.
- 2009 – GAB hires LTE contract software developers to continue development of SVRS and transition SVRS to .NET Framework 3.5.
- 2010 – GAB launches SVRS 7.0. It consists of 55 servers in 4 environments.
- 2011 – GAB hires IS contractors to support SVRS under the direction of the DOA Bureau of Application Support Director and the GAB Elections Division Governance Team.
- 2012 – GAB IT development team updates SVRS to comply with the Photo ID law and incorporate elements using Dynamics CRM platform elements.
- 2012-2013 – GAB upgrades SQL server, Windows Server, and .NET framework versions.
- 2014 – GAB begins developing an all-new state-wide system after positive feedback on the usability and stability of Dynamics CRM elements of SVRS. Dynamics CRM is a development platform which we used to create a custom, proprietary, user interface that interacts with the other components of WisVote. This is not a vendor-based system and no vendor has access to the system or the code base. If a change is made, a feature added, or a fix implemented to the system it is done by state employees or employees hired through Knowledge Services.
- 2015 – GAB approves the purchase of Dynamics CRM platform licenses to complete development and fielding of the new system, called WisVote.

WisVote

- 2016 – GAB launches WisVote. WisVote adds absentee ballot request and tracking tools, election worker training and tracking tools, and support for the MyVote Wisconsin and Badger Voters portals.
- 2017 – WEC upgrades WisVote to support Online Voter Registration after state law is passed allowing voters that option and to also support the statutorily authorized Badger Book electronic poll book system.
- 2018 – WEC upgrades WisVote with Election Day Registration postcard reporting and election reconciliation functions. SQL server and Windows Server versions are also updated. Multifactor authentication is added for all users – this is in addition to regular username and password credentialling. Mandatory device endpoint testing software and cyber security training is also required before clerks receive access.
- 2019 – WEC upgrades the WisVote user interface to the Dynamics CRM 365 On Premise operating platform, which provides security updates and adds endpoint monitoring for all devices accessing WisVote using a separate software application.
- 2020 – WEC upgrades WisVote with absentee ballot mail tracking for outgoing ballots.
- Development background:
    - the Wisconsin Elections Commission built WisVote, and it is a custom, in-house developed application that is not used by any other entity and is not available for use or sale by any other entity. It was built utilizing secure platforms and customized in-house to comply with Wisconsin election laws and meet the needs of system users.
    - All WisVote development was performed by:
        - full-time state employees
        - federally funded-project state employees
        - or individuals hired through the State of Wisconsin's IT services contract and supervised by state employees
    - No vendors were involved in the development or maintenance of WisVote.

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Question 3: WisVote Structure. *Please identify the name and all technical specifications (including coding language, version and platform) of the application software used to code and run the Statewide System and whether any contractors were used to design, build or operate any portion or component of the software. It is our understanding that the Statewide System consists of a main application or platform, and coordinates WisVote, MyVote, Badger Voters, and possibly other applications, which may not be public. Please identify ALL applications that have any connectivity to the Statewide System through any application programming interface (API) or other path of connectivity giving any and all parties real time access to any function of the Statewide System or the Voter Identification Database, including contractors, vendors, non-profit or political entities and any other parties.*

Answer 3: The current state-wide voter registration database, WisVote, was built using the following specification:

- **Platforms**
  - Dynamics CRM 365 On Premise (User Interface)
  - SQL Server 2019 Enterprise (Database)
  - Windows Server
  - Red Hat Enterprise Linux 7
  - ASP.NET (Badger Voters)

- **Language**
  - C#

- WEC and DOA/DET employ individuals for software development under the mandatory state Knowledge Services contract, and previously under the Tapfin contract, who are under the direct supervision of state employees.
- Other State of Wisconsin systems with connectivity to WisVote (direct or indirect).
  - MyVote.wi.gov (Public access website, built and maintained by WEC, hosted by DOA)
  - Badger Voters (Data request system, built and maintained by WEC, hosted by DOA)
  - Badger Book (indirect, no live connection. System built and maintained by WEC, hosted by DOA)
  - Canvass Reporting System (indirect connection. Official election results collection from counties and unofficial report generation for counties).
  - Access Elections (WEC database for ADA-compliance site review data)
  - Campaign Finance Information System (CFIS) (limited access to Ethics Commission for required statutory functions)
- External Services accessed by WisVote (one-way queries only)
  - WisDOT DMV Service
  - ArcGIS
  - Smarty Streets addressing service
  - Google Maps
- Internal Only APIs
  - Wisconsin DOT, statutorily required to support Online Voter Registration
  - Above mentioned statutorily required indirect access to Ethics CFIS
  - Elections Data Management
  - Department of Corrections, statutorily required felon notices
  - Address verification/validation USPS Service and ZP4 Service
- There are no APIs offering external contractors, vendors, non-profits, political entities, or other parties access to the system. Local election authorities do not have system development access and are therefore unable to offer APIs to any entity.

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Question 4: Physical Location of Data. *Please reveal where the Statewide System is hosted. Is the Statewide System hosted at DOA with or separate from the Voter Identification Database or is it hosted elsewhere on another server system such as Amazon© Web Services (AWS) or hosted physically at WEC itself? If the Statewide System is hosted at any place or vendor other than DOA, please provide all written and oral agreements between WEC and said host. If the Statewide System is physically hosted at WEC, please disclose which room or office number it is located in and provide security logs of who has authorized physical access to that room or rooms.*

Answer 4: All voter data is hosted, stored, or otherwise resides on servers and systems owned by the State of Wisconsin under the supervision and management of the Department of Administration's Division of Enterprise Technology. DOA/DET primarily uses two major data centers: Femrite Data Center (Madison, WI) and Milwaukee Data Center (Milwaukee, WI).

Question 5: Procurements & Contracts. *Please provide a copy of any and all procurement agreements, requests for proposals, bid requests, bid invitations and all technology agreements, technology employment agreements and other agreements related to coding, designing, structuring, envisioning, updating, editing, writing or otherwise manipulating in any way, the Voter Identification Database or the Statewide System that WEC, or any of its predecessors, is or has been a party to over the past 20 years. This request requires you to produce copies of all procurement or other agreements entered into by WEC, or its predecessors, with any other parties under Wisconsin procurement procedures relying upon the technique known as "piggybacking" on other existing state procurement contracts.*

Answer 5: Regarding current personnel records, all information related to the WEC's employment of IT development staff is now being processed as part of a public records request through the Department of Administration. It is our understanding that the Committee has also asked for and received documents regarding any IT procurements related to the current state-wide system. Those requests are currently being processed in coordination between the WEC, DOA, and DET.

Regarding historical records of previous systems under predecessor agencies, WEC is not in physical possession of these records, but if requested can work to analyze and process this request as a public records request including working with the state archives and DOA to locate responsive historical records. This request asks for records that span 20 years, three separate state agencies, and involve technical applications no longer in use by the State of Wisconsin. Commission approval is needed before expending the vast volume of hours and resources required to comply with a request of this nature. If the Committee is not seeking records related to systems that no longer exist and are no longer in use, it is our belief that the current public records request filed with the Department of Administration will yield all responsive records related to the current WisVote system and related applications.

Question 6: All Logs & Registries. *Please provide all logs and registries (as commonly understood in database and application and internet usage), of ALL types, whether defined herein or not, including, but not limited to, registry logs, access logs, data change logs, login logs and all other logs recording all digital activities occurring within the Statewide System and the Voter Identification Database.*

Answer 6: The state-wide system is housed through the Department of Administration's Division of Enterprise Technology, all related technical logging information must also be requested through DOA, who would determine if there are responsive records. WEC would cooperate with DOA regarding any such request.

Question 7. All Audit History. *Please provide all logs, registries or records of any kind recording all changes to the status of every voter, active and inactive, contained in the 7 million record Voter Identification Database or the Statewide System. Such logs, registries and other records must specifically*

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show the time and date a voter is registered in the Voter Identification Database and Statewide System, who registered the person to vote and each and every status change of every voter when turned inactive, reactivated and or turned back inactive.

Answer 7: This request also needs to be elevated to the full Commission for review and consideration. Our reading of this request is that the Legislature seeks data to understand the status of every voter record in the statewide system (both active and inactive) and to understand how/who established or changed voter records and statuses throughout history. This kind of data can be accessed and is provided routinely to parties who request it through Badger Voters. State law and the Commission's administrative code requires the agency to charge for such custom data (Wis. Stat. § 6.36(6), Wis. Admin. Code EL § 3.50). There are no exceptions to this requirement for legislative committees under state law or administrative code.

The request as described would include hundreds of millions of data points and would require coordination and congruent technical applications between the state and the Legislature to facilitate a meaningful and secure transfer. Also, the Wisconsin State Statutes and Administrative Code provisions, including but not limited to Wis. Stat. §§ 6.36(1)(b)1.a., 6.47, Wis. Admin. Code EL § 3.50(8), prohibit the release of personally identifiable information. Both state and federal law protect information such as dates of birth, social security numbers, and driver license and ID card numbers contained in voter records. There are no exceptions to this requirement for legislative committees under state law or administrative code.

Upon approval from the Commission, WEC staff would work with the Committee to provide data that is useful, timely, and compliant under state statutes.

Question 8: External APIs. *Please provide an exact copy of the API code or software that allowed any and all private, forprofit, non-governmental, non-profit, political party or any type of lobbying or advocacy group to directly access WisVote, MyVote or any other part of the Statewide System or the Voter Identification Database at any time during the years of 2020 and 2021. Please also provide logs, registries and any other records of the times and dates any or all of these parties accessed the Statewide System or the Voter Identification Database, or any other data system operated or controlled by the State of Wisconsin in 2020 and 2021.*

Answer 8: There are no private, for-profit, non-governmental, non-profit, political party, or any type of lobbying of advocacy group with direct access to WisVote, MyVote or any database or application related to the statewide database. Only the official government entities and systems described in our answer to question 3 above have any sort of direct or indirect access to the statewide voter registration system or related applications.

Question 9. ERIC Data. *Please provide a list of all voters referred by the Electronic Registration Information Center to WEC or to Wisconsin clerks in 2020 and 2021, including the specific communication, the name of each voter and their address, driver's license number, date of birth and the date referred to WEC or any Wisconsin Clerk.*

Answer 9: ERIC does not make "referrals" to the WEC or clerks. ERIC provides data in various categories as outlined in the ERIC membership agreement. Production of ERIC data reports about voters is expressly prohibited by the ERIC Membership Agreement, paragraph 4. Wisconsin law requires the chief election official to enter into a membership agreement with ERIC. Wis. Stat. §6.36(1)(ae). To maintain its membership with ERIC, the WEC may not violate the terms of the agreement. Additionally, as described above, state law and administrative code provisions do not allow the release of a voter's personally identifiable information, with limited exceptions.

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There is some data that WEC can provide in compliance with the ERIC agreement and state statute. At this link (https://elections.wi.gov/node/7461) you can find the mailer design that was sent to voters who were flagged as having a different address in their voter record than DMV/USPS in 2021. In 2020 the Commission sent a mailer to voters who are not registered to vote but are eligible according to DMV records, which is also required by the ERIC membership agreement. Information about the most recent mailing is available at this link: https://elections.wi.gov/node/6940. The Commission will review and approve any changes to the mailers for 2022 at an upcoming meeting.

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Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984

December 30, 2021

SENT VIA EMAIL

Dear Representative Brandtjen and members of the Assembly Committee on Campaigns and Elections,

Thank you for your recent inquiry regarding the origin, structure, and security of WisVote, the state's voter registration system and voter database. Wisconsin Elections Commission staff have provided answers, explanations and background for each of your questions submitted on December 22, 2021. Below, please find a specific response to each question. The text of your questions is also included with each response for easy reference. Your original request, along with this reply, has also been provided to the six-member Wisconsin Elections Commission.

While we are always happy to provide requested information to the Committee on a timely basis, some of the requests you make will need to be considered by the full Commission. The Chair of the Commission has added this discussion to the January 11, 2021, meeting. Further, in that some of your requests involve statutory issues regarding release of confidential voter information under Wis. Stat. §§ 6.36(1)(b)1.a., 6.47, and Wis. Admin. Code EL § 3.50(8), the Commission will need to consider the options available to fulfil your request. We explain in detail below the quandaries in those cases where they occur and what the options for further follow-up include.

We look forward to working with the Committee on these and any other questions about elections administration in Wisconsin.

Sincerely,

Meagan Wolfe
Administrator
Wisconsin Election Commission

cc: members of the Wisconsin Elections Commission

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

Administrator
Meagan Wolfe

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WI-REP-22-0106-A-000978

Question 1: State Control of Data. *Please confirm that all of the voter identification data (Voter Identification Database) contained within, used or accessed by the Wisconsin statewide voter roll system administered by your agency (Statewide System) is hosted, stored or otherwise resides on a server or servers owned and operated by the Wisconsin Department of Administration (DOA). If the Voter Identification Database is hosted elsewhere, please provide the identity of the host and any and all written or oral agreements between WEC and such host.*

Answer 1: All voter data is hosted, stored, or otherwise resides on servers and systems owned by the State of Wisconsin. The Wisconsin Elections Commission uses the same state-owned data center and services as other state agencies through the Department of Administration's Division of Enterprise Technology. There are no other entities to identify or with whom the WEC holds agreements for data or server hosting.

Question 2: Database Specifications. *Please provide the type, specifications and version of the database software used to contain and manage the data in the Voter Identification Database (such as MySQL, Oracle, etc.) on said servers. Upon receipt of your response, we will expect the ability to: identify the software used to create the Voter Identification Database program, identify who wrote the database program, determine whether the database program was actually built by WEC staff as you declared publicly in the September 8, 2021 Senate hearing ("we actually built it ourselves here in the State of Wisconsin") or whether the database program is actually vendor-supplied database software or components, and that the database software containing over 7 million records of Wisconsin voter data is hosted or otherwise resides securely on DOA servers.*

Answer 2: The State of Wisconsin voter registration program and database, containing all voter registration records and voter history, resides at the state data centers and is securely hosted on DOA servers. The current state-wide voter registration system, known as WisVote, is a system designed, developed, maintained, and secured by the State of Wisconsin. All program development, testing, and security is done by State of Wisconsin employees and employees hired through the state's required IT development services contract, currently with Knowledge Services. It is our understanding that the Committee Chair has made a separate public records request to the Department of Administration for WEC employee and service contract information which will verify this fact. State of Wisconsin agencies use the state IT services contract to hire and maintain IT developers to accomplish their IT needs. The WEC built the WisVote system, and DET hosts the system using the following specifications:

- **Platforms:**
  - Dynamics CRM 365 On Premise (User Interface)
  - SQL Server 2019 Enterprise (Database)
  - Windows Server
  - Red Hat Enterprise Linux 7
  - ASP.NET (Badger Voters)
- **Environments:**
  - PROD
  - UAT
  - DEV
  - MIRROR

- **# of Servers:**
  - Currently 2 production database servers
  - Additional database servers in other environments for testing and redundancy

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  - More than 50 total servers all types – all housed and secured through the Department of Administration

- **Server Application Types:**
  - Azure DevOps
  - Badger Voters
  - Canvass
  - Email Routing
  - Linux Database Servers
  - MyVote
  - PS Management
  - SQL Software Reporting Services
  - User interface
  - Windows Database Servers
  - WisVote Asynchronous Servers
  - WisVote Batch jobs

As it relates to the history of the "Database," development history is a matter of public record and is extensively detailed in public meeting minutes of the SEB, GAB, and WEC. Over the past 20 years Wisconsin's registration system evolved from nothing to the AESM, then to SVRS, and most recently WisVote. The current system, used by the WEC since the creation of the agency, was built by the State of Wisconsin and is not a vendor-based system. The WisVote system is maintained, tested, built, repaired, and secured using state employees and employees hired through the state's Knowledge Services mandatory contract.

Voter Database Timeline

Before the state-wide system

- **2002** - The Federal Help America Vote Act mandates creation of state-wide voter registration systems and allocates funding for states to create them.
- **2003** – The State Elections Board (SEB) begins planning for a state-wide voter registration system.
  - At the time, 13 of 72 counties had legacy voter registration databases – most using Access, Excel, and Word. Some were DOS based and one (Fond du Lac) was Cobalt based.
  - 235 municipalities maintained local databases using 61 different types of software ranging from Microsoft Word to off-the-shelf products.
- **2004** – SEB contracts with Accenture to create a state-wide voter registration system. Development starts.
- **2005** – SEB hires Project and Limited-Term staff to support development of the state-wide voter registration system. SEB contracts with National Business Systems for data entry to import voter data.
  - State law did not require voter registration in municipalities with a population under 5,000 until 2005. Thus, many smaller jurisdictions did not maintain a database until state law changed and until some statewide functions were mandated under HAVA. Therefore, many voter registration records converted from county and municipal legacy systems into the state-wide system did not have a "registration date" associated with them. See our FAQ on this topic (https://elections.wi.gov/node/7516) for more details.

AESM Pilot System

- 2006 – SEB launches AESM (Accenture Election System Manager). This system was version 1.0 of the State-wide Voter Registration System (SVRS). System performance is evaluated as poor by the SEB and Wisconsin clerks.

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- 2007 – SEB and Accenture terminate their contract. Accenture repays the State of Wisconsin $4.0 million and releases all data to the State.

SVRS

- 2008 – GAB hires transitional IS professionals to redevelop and manage the state-wide system, SVRS. It consists of 59 servers in 3 environments.
- 2009 – GAB hires LTE contract software developers to continue development of SVRS and transition SVRS to .NET Framework 3.5.
- 2010 – GAB launches SVRS 7.0. It consists of 55 servers in 4 environments.
- 2011 – GAB hires IS contractors to support SVRS under the direction of the DOA Bureau of Application Support Director and the GAB Elections Division Governance Team.
- 2012 – GAB IT development team updates SVRS to comply with the Photo ID law and incorporate elements using Dynamics CRM platform elements.
- 2012-2013 – GAB upgrades SQL server, Windows Server, and .NET framework versions.
- 2014 – GAB begins developing an all-new state-wide system after positive feedback on the usability and stability of Dynamics CRM elements of SVRS. Dynamics CRM is a development platform which we used to create a custom, proprietary, user interface that interacts with the other components of WisVote. This is not a vendor-based system and no vendor has access to the system or the code base. If a change is made, a feature added, or a fix implemented to the system it is done by state employees or employees hired through Knowledge Services.
- 2015 – GAB approves the purchase of Dynamics CRM platform licenses to complete development and fielding of the new system, called WisVote.

WisVote

- 2016 – GAB launches WisVote. WisVote adds absentee ballot request and tracking tools, election worker training and tracking tools, and support for the MyVote Wisconsin and Badger Voters portals.
- 2017 – WEC upgrades WisVote to support Online Voter Registration after state law is passed allowing voters that option and to also support the statutorily authorized Badger Book electronic poll book system.
- 2018 – WEC upgrades WisVote with Election Day Registration postcard reporting and election reconciliation functions. SQL server and Windows Server versions are also updated. Multifactor authentication is added for all users – this is in addition to regular username and password credentialling. Mandatory device endpoint testing software and cyber security training is also required before clerks receive access.
- 2019 – WEC upgrades the WisVote user interface to the Dynamics CRM 365 On Premise operating platform, which provides security updates and adds endpoint monitoring for all devices accessing WisVote using a separate software application.
- 2020 – WEC upgrades WisVote with absentee ballot mail tracking for outgoing ballots.
- Development background:
    - the Wisconsin Elections Commission built WisVote, and it is a custom, in-house developed application that is not used by any other entity and is not available for use or sale by any other entity. It was built utilizing secure platforms and customized in-house to comply with Wisconsin election laws and meet the needs of system users.
    - All WisVote development was performed by:
        - full-time state employees
        - federally funded-project state employees
        - or individuals hired through the State of Wisconsin's IT services contract and supervised by state employees
    - No vendors were involved in the development or maintenance of WisVote.

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Question 3: WisVote Structure. *Please identify the name and all technical specifications (including coding language, version and platform) of the application software used to code and run the Statewide System and whether any contractors were used to design, build or operate any portion or component of the software. It is our understanding that the Statewide System consists of a main application or platform, and coordinates WisVote, MyVote, Badger Voters, and possibly other applications, which may not be public. Please identify ALL applications that have any connectivity to the Statewide System through any application programming interface (API) or other path of connectivity giving any and all parties real time access to any function of the Statewide System or the Voter Identification Database, including contractors, vendors, non-profit or political entities and any other parties.*

Answer 3: The current state-wide voter registration database, WisVote, was built using the following specification:

- **Platforms**
  - Dynamics CRM 365 On Premise (User Interface)
  - SQL Server 2019 Enterprise (Database)
  - Windows Server
  - Red Hat Enterprise Linux 7
  - ASP.NET (Badger Voters)

- **Language**
  - C#

- WEC and DOA/DET employ individuals for software development under the mandatory state Knowledge Services contract, and previously under the Tapfin contract, who are under the direct supervision of state employees.
- Other State of Wisconsin systems with connectivity to WisVote (direct or indirect).
  - MyVote.wi.gov (Public access website, built and maintained by WEC, hosted by DOA)
  - Badger Voters (Data request system, built and maintained by WEC, hosted by DOA)
  - Badger Book (indirect, no live connection. System built and maintained by WEC, hosted by DOA)
  - Canvass Reporting System (indirect connection. Official election results collection from counties and unofficial report generation for counties).
  - Access Elections (WEC database for ADA-compliance site review data)
  - Campaign Finance Information System (CFIS) (limited access to Ethics Commission for required statutory functions)
- External Services accessed by WisVote (one-way queries only)
  - WisDOT DMV Service
  - ArcGIS
  - Smarty Streets addressing service
  - Google Maps
- Internal Only APIs
  - Wisconsin DOT, statutorily required to support Online Voter Registration
  - Above mentioned statutorily required indirect access to Ethics CFIS
  - Elections Data Management
  - Department of Corrections, statutorily required felon notices
  - Address verification/validation USPS Service and ZP4 Service
- There are no APIs offering external contractors, vendors, non-profits, political entities, or other parties access to the system. Local election authorities do not have system development access and are therefore unable to offer APIs to any entity.

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Question 4: Physical Location of Data. *Please reveal where the Statewide System is hosted. Is the Statewide System hosted at DOA with or separate from the Voter Identification Database or is it hosted elsewhere on another server system such as Amazon© Web Services (AWS) or hosted physically at WEC itself? If the Statewide System is hosted at any place or vendor other than DOA, please provide all written and oral agreements between WEC and said host. If the Statewide System is physically hosted at WEC, please disclose which room or office number it is located in and provide security logs of who has authorized physical access to that room or rooms.*

Answer 4: All voter data is hosted, stored, or otherwise resides on servers and systems owned by the State of Wisconsin under the supervision and management of the Department of Administration's Division of Enterprise Technology. DOA/DET primarily uses two major data centers: Femrite Data Center (Madison, WI) and Milwaukee Data Center (Milwaukee, WI).

Question 5: Procurements & Contracts. *Please provide a copy of any and all procurement agreements, requests for proposals, bid requests, bid invitations and all technology agreements, technology employment agreements and other agreements related to coding, designing, structuring, envisioning, updating, editing, writing or otherwise manipulating in any way, the Voter Identification Database or the Statewide System that WEC, or any of its predecessors, is or has been a party to over the past 20 years. This request requires you to produce copies of all procurement or other agreements entered into by WEC, or its predecessors, with any other parties under Wisconsin procurement procedures relying upon the technique known as "piggybacking" on other existing state procurement contracts.*

Answer 5: Regarding current personnel records, all information related to the WEC's employment of IT development staff is now being processed as part of a public records request through the Department of Administration. It is our understanding that the Committee has also asked for and received documents regarding any IT procurements related to the current state-wide system. Those requests are currently being processed in coordination between the WEC, DOA, and DET.

Regarding historical records of previous systems under predecessor agencies, WEC is not in physical possession of these records, but if requested can work to analyze and process this request as a public records request including working with the state archives and DOA to locate responsive historical records. This request asks for records that span 20 years, three separate state agencies, and involve technical applications no longer in use by the State of Wisconsin. Commission approval is needed before expending the vast volume of hours and resources required to comply with a request of this nature. If the Committee is not seeking records related to systems that no longer exist and are no longer in use, it is our belief that the current public records request filed with the Department of Administration will yield all responsive records related to the current WisVote system and related applications.

Question 6: All Logs & Registries. *Please provide all logs and registries (as commonly understood in database and application and internet usage), of ALL types, whether defined herein or not, including, but not limited to, registry logs, access logs, data change logs, login logs and all other logs recording all digital activities occurring within the Statewide System and the Voter Identification Database.*

Answer 6: The state-wide system is housed through the Department of Administration's Division of Enterprise Technology, all related technical logging information must also be requested through DOA, who would determine if there are responsive records. WEC would cooperate with DOA regarding any such request.

Question 7. All Audit History. *Please provide all logs, registries or records of any kind recording all changes to the status of every voter, active and inactive, contained in the 7 million record Voter Identification Database or the Statewide System. Such logs, registries and other records must specifically*

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show the time and date a voter is registered in the Voter Identification Database and Statewide System, who registered the person to vote and each and every status change of every voter when turned inactive, reactivated and or turned back inactive.

Answer 7: This request also needs to be elevated to the full Commission for review and consideration. Our reading of this request is that the Legislature seeks data to understand the status of every voter record in the statewide system (both active and inactive) and to understand how/who established or changed voter records and statuses throughout history. This kind of data can be accessed and is provided routinely to parties who request it through Badger Voters. State law and the Commission's administrative code requires the agency to charge for such custom data (Wis. Stat. § 6.36(6), Wis. Admin. Code EL § 3.50). There are no exceptions to this requirement for legislative committees under state law or administrative code.

The request as described would include hundreds of millions of data points and would require coordination and congruent technical applications between the state and the Legislature to facilitate a meaningful and secure transfer. Also, the Wisconsin State Statutes and Administrative Code provisions, including but not limited to Wis. Stat. §§ 6.36(1)(b)1.a., 6.47, Wis. Admin. Code EL § 3.50(8), prohibit the release of personally identifiable information. Both state and federal law protect information such as dates of birth, social security numbers, and driver license and ID card numbers contained in voter records. There are no exceptions to this requirement for legislative committees under state law or administrative code.

Upon approval from the Commission, WEC staff would work with the Committee to provide data that is useful, timely, and compliant under state statutes.

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Answer 8: There are no private, for-profit, non-governmental, non-profit, political party, or any type of lobbying of advocacy group with direct access to WisVote, MyVote or any database or application related to the statewide database. Only the official government entities and systems described in our answer to question 3 above have any sort of direct or indirect access to the statewide voter registration system or related applications.

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Answer 9: ERIC does not make "referrals" to the WEC or clerks. ERIC provides data in various categories as outlined in the ERIC membership agreement. Production of ERIC data reports about voters is expressly prohibited by the ERIC Membership Agreement, paragraph 4. Wisconsin law requires the chief election official to enter into a membership agreement with ERIC. Wis. Stat. §6.36(1)(ae). To maintain its membership with ERIC, the WEC may not violate the terms of the agreement. Additionally, as described above, state law and administrative code provisions do not allow the release of a voter's personally identifiable information, with limited exceptions.

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From: "Smalley, John M - ELECTIONS" <john.smalley@wisconsin.gov>
Sent: Thursday, December 30, 2021, 1:07 PM
To: "Rep.Brandtjen - LEGIS" <Rep.Brandtjen@legis.wisconsin.gov>
Cc: EL DL Elections Comm <ELECdlelectionscommision@wisconsin.gov>; "Wolfe, Meagan - ELECTIONS" <Meagan.Wolfe@wisconsin.gov>; "Rep.Rozar - LEGIS" <Rep.Rozar@legis.wisconsin.gov>; "Rep.Tusler@legis.wisconsin.gov" <Rep.Tusler@legis.wisconsin.gov>; "Rep.Sanfelippo - LEGIS" <Rep.Sanfelippo@legis.wisconsin.gov>; "Rep.Thiesfeldt - LEGIS" <Rep.Thiesfeldt@legis.wisconsin.gov>; "Rep.Murphy@legis.wisconsin.gov" <Rep.Murphy@legis.wisconsin.gov>; "Savage, Bill - LEGIS" <Bill.Savage@legis.wisconsin.gov>
Subject: Response letter to Dec. 22 inquiry
Attachments: Response Assembly Committee 12-30-21.pdf

Dear Representative Brandtjen,

Please find attached the Wisconsin Elections Commission staff response to the letter of inquiry emailed from the Assembly Committee on Campaigns and Elections to WEC Administrator Meagan Wolfe on Dec. 22. Please let me know if you have any questions or need any additional follow-up.

Best wishes,

John Smalley
WEC Office of Public Information

AMERICAN OVERSIGHT

Statement to the Assembly Committee on Campaigns and Elections
By Matt Rothschild, Executive Director, Wisconsin Democracy Campaign
Re: Special Counsel Motion
January 19, 2022

I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign. Since 1995, we've been tracking and exposing the money in Wisconsin politics and advocating for a broad range of pro-democracy reforms.

We strongly object to this motion to enlarge the scope of the special counsel's role for the following eight reasons.

Problem #1: This motion violates the separation of powers by giving the special counsel prosecutorial powers.

It would allow Gableman to interview citizens in private, behind closed doors with no legislative oversight. There is no statute or rule that allows for this type of private, quasi-deposition and secretive process, and the people of Wisconsin rightfully expect transparency in their lawmaking and from their legislature. The legislature is not supposed to be in the prosecution business. That role properly resides in the executive branch.

Problem #2: The special counsel has a preconceived bias that makes him unsuited for this job.

Just days after the election, Michael Gableman, at a partisan Republican rally, said: "Our elected leaders — your elected leaders — have allowed unelected bureaucrats at the Wisconsin Elections Commission to steal our vote." Someone who has made such a slanderous accusation and has demonstrated such a preconceived bias should not be in charge of the investigation. The accuser should not become the prosecutor.

Problem #3: Staff members of the special counsel have the same preconceived bias that disqualifies them from their jobs and that reinforces the disqualifying bias of the special counsel.

Gableman's chief of staff, Andrew Kloster, also has said that the election was stolen. What's more, he said in April that conservatives need their own "irate hooligans" like the Proud Boys and "our own captured DA offices to let our boys off the hook." This is an incitement to rightwing vigilante violence and to corrupt enforcement of the law! Other staff members are similarly biased. One of his investigators, Ron Heuer, is

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the president of the Wisconsin Voters Alliance, which unsuccessfully sued to prevent the Wisconsin Elections Commission from certifying the election and sought instead to have the Republican-controlled Legislature pick the representatives Wisconsin sent to the Electoral College. These partisan biases could not be more glaring or more disqualifying.

Problem #4: The special counsel has shown that he does not have the background or skills necessary for this job.

The special counsel admitted in public that he doesn't have "any understanding of how elections work." So why he is in charge? He also has shown extraordinary sloppiness in the way he's been doing his job. Example 1: He subpoenaed Dominion voting machines from Madison and Green Bay when neither Madison nor Green Bay uses Dominion voting machines. Example 2: He asked Green Bay and Madison for all information about voters held by their computer systems, but that could include information like birth dates, driver's license numbers, and addresses. Voters have an expectation that their personal information will not be treated with such callousness.

Problem #5: The special counsel does not have the proper temperament for this job.

The special counsel interrupted and berated members of this very Committee in previous "public" hearings in a way that no witness in memory has gotten away with. Also at one of these hearings, the special counsel, by name, accused one of the most senior Capitol reporters in our state as being an "activist." And the special counsel also said that State Senator Kathy Bernier, chair of the Senate Committee on Elections, should resign. Such outbursts reveal a serious character flaw that should disqualify Gableman from this office.

Problem #6: The special counsel is squandering the public's resources with no endpoint in sight.

The office of the special counsel has already cost the taxpayers of Wisconsin $676,000. The boundless motion to expand his role would keep the meter running overtime. It's the very definition of a blank check. Speaker Vos, who originally appointed Gableman, said that the special counsel should wrap up his work last October, and then the Speaker extended that to the end of the last year, and then to the end of this January, and then to the end of February. And now the Committee's motion would extend it even further, with no end in sight. This constant shifting of the goalposts does a disservice to the public, and to the public's wallet.

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Problem #7: The special counsel is serving not the public interest but a narrow partisan interest.

The November 2020 elections are now more than 14 months old. Donald Trump went 0-60 in the courts, including 0-3 at the Wisconsin Supreme Court. He demanded a recount in Dane County and Milwaukee County, and the recount found the same result. The Legislative Audit Bureau examined our elections, and according to Sen. Rob Cowles, co-chair of the Legislative Audit Committee, the audit showed that our elections are "safe and secure." Even the conservative Wisconsin Institute for Law and Liberty found that there was no widespread fraud. Sen. Bernier has denounced the endless beating of this dead horse as a "charade." And yet it continues. Not in search of the truth, but for other reasons:

— to provide some post-facto justification for the Big Lie that spills out of Donald Trump's mouth right after he says good morning
— to back up the regurgitation of that lie by the likes of Michael Gableman and others
— to feed rancid red meat to the zealous base of the Trump wing of the Republican Party
— and to keep that base agitated through the elections of 2022 and 2024.

Our tax dollars should not be squandered for such hyper-partisan purposes.

Problem #8: The special counsel's ceaseless casting of aspersions about the legitimacy of the November 2020 elections undermines the people's faith in our democracy.

There has been an unprecedented attempt, nationwide and here in Wisconsin, by the Trumpite wing of the Republican Party to sabotage our American way of political life. Never before have we seen a President not vow to have a peaceful transition of power. Never before have we seen anything like the Jan. 6 coup attempt. And still people like Michael Gableman claim that the election was "rigged." These are like parents at a high school game screaming at the refs in the parking lot more than a year after the game ended. It would be pathetic if it weren't so dangerous to our democracy and our freedom to vote.

Thank you for considering my views.

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It would allow Gableman to interview citizens in private, behind closed doors with no legislative oversight. There is no statute or rule that allows for this type of private, quasi-deposition and secretive process, and the people of Wisconsin rightfully expect transparency in their lawmaking and from their legislature. The legislature is not supposed to be in the prosecution business. That role properly resides in the executive branch.

Problem #2: The special counsel has a preconceived bias that makes him unsuited for this job.

Just days after the election, Michael Gableman, at a partisan Republican rally, said: "Our elected leaders — your elected leaders — have allowed unelected bureaucrats at the Wisconsin Elections Commission to steal our vote." Someone who has made such a slanderous accusation and has demonstrated such a preconceived bias should not be in charge of the investigation. The accuser should not become the prosecutor.

Problem #3: Staff members of the special counsel have the same preconceived bias that disqualifies them from their jobs and that reinforces the disqualifying bias of the special counsel.

Gableman's chief of staff, Andrew Kloster, also has said that the election was stolen. What's more, he said in April that conservatives need their own "irate hooligans" like the Proud Boys and "our own captured DA offices to let our boys off the hook." This is an incitement to rightwing vigilante violence and to corrupt enforcement of the law! Other staff members are similarly biased. One of his investigators, Ron Heuer, is

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the president of the Wisconsin Voters Alliance, which unsuccessfully sued to prevent the Wisconsin Elections Commission from certifying the election and sought instead to have the Republican-controlled Legislature pick the representatives Wisconsin sent to the Electoral College. These partisan biases could not be more glaring or more disqualifying.

Problem #4: The special counsel has shown that he does not have the background or skills necessary for this job.

The special counsel admitted in public that he doesn't have "any understanding of how elections work." So why he is in charge? He also has shown extraordinary sloppiness in the way he's been doing his job. Example 1: He subpoenaed Dominion voting machines from Madison and Green Bay when neither Madison nor Green Bay uses Dominion voting machines. Example 2: He asked Green Bay and Madison for all information about voters held by their computer systems, but that could include information like birth dates, driver's license numbers, and addresses. Voters have an expectation that their personal information will not be treated with such callousness.

Problem #5: The special counsel does not have the proper temperament for this job.

The special counsel interrupted and berated members of this very Committee in previous "public" hearings in a way that no witness in memory has gotten away with. Also at one of these hearings, the special counsel, by name, accused one of the most senior Capitol reporters in our state as being an "activist." And the special counsel also said that State Senator Kathy Bernier, chair of the Senate Committee on Elections, should resign. Such outbursts reveal a serious character flaw that should disqualify Gableman from this office.

Problem #6: The special counsel is squandering the public's resources with no endpoint in sight.

The office of the special counsel has already cost the taxpayers of Wisconsin $676,000. The boundless motion to expand his role would keep the meter running overtime. It's the very definition of a blank check. Speaker Vos, who originally appointed Gableman, said that the special counsel should wrap up his work last October, and then the Speaker extended that to the end of the last year, and then to the end of this January, and then to the end of February. And now the Committee's motion would extend it even further, with no end in sight. This constant shifting of the goalposts does a disservice to the public, and to the public's wallet.

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Problem #7: The special counsel is serving not the public interest but a narrow partisan interest.

The November 2020 elections are now more than 14 months old. Donald Trump went 0-60 in the courts, including 0-3 at the Wisconsin Supreme Court. He demanded a recount in Dane County and Milwaukee County, and the recount found the same result. The Legislative Audit Bureau examined our elections, and according to Sen. Rob Cowles, co-chair of the Legislative Audit Committee, the audit showed that our elections are "safe and secure." Even the conservative Wisconsin Institute for Law and Liberty found that there was no widespread fraud. Sen. Bernier has denounced the endless beating of this dead horse as a "charade." And yet it continues. Not in search of the truth, but for other reasons:

— to provide some post-facto justification for the Big Lie that spills out of Donald Trump's mouth right after he says good morning
— to back up the regurgitation of that lie by the likes of Michael Gableman and others
— to feed rancid red meat to the zealous base of the Trump wing of the Republican Party
— and to keep that base agitated through the elections of 2022 and 2024.

Our tax dollars should not be squandered for such hyper-partisan purposes.

Problem #8: The special counsel's ceaseless casting of aspersions about the legitimacy of the November 2020 elections undermines the people's faith in our democracy.

There has been an unprecedented attempt, nationwide and here in Wisconsin, by the Trumpite wing of the Republican Party to sabotage our American way of political life. Never before have we seen a President not vow to have a peaceful transition of power. Never before have we seen anything like the Jan. 6 coup attempt. And still people like Michael Gableman claim that the election was "rigged." These are like parents at a high school game screaming at the refs in the parking lot more than a year after the game ended. It would be pathetic if it weren't so dangerous to our democracy and our freedom to vote.

Thank you for considering my views.

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From: Beverly Speer <speer@wisdc.org>
Sent: Wednesday, January 19, 2022, 8:48 AM
To: "Rep.Brandtjen@legis.wisconsin.gov" <Rep.Brandtjen@legis.wisconsin.gov>; "Rep.Sanfelippo@legis.wisconsin.gov" <Rep.Sanfelippo@legis.wisconsin.gov>; "Rep.Tusler@legis.wisconsin.gov" <Rep.Tusler@legis.wisconsin.gov>; "Rep.Thiesfeldt@legis.wisconsin.gov" <Rep.Thiesfeldt@legis.wisconsin.gov>; "Rep.Murphy@legis.wisconsin.gov" <Rep.Murphy@legis.wisconsin.gov>; "Rep.Rozar@legis.wisconsin.gov" <Rep.Rozar@legis.wisconsin.gov>; "Rep.Spreitzer@legis.wisconsin.gov" <Rep.Spreitzer@legis.wisconsin.gov>; "Rep.Subeck" <Rep.Subeck@legis.wisconsin.gov>; "Rep.Emerson@legis.wisconsin.gov" <Rep.Emerson@legis.wisconsin.gov>
Subject: Special Counsel Motion
Attachments: special counsel motion statement.pdf

Please see the attached statement to the Assembly Committee on Campaigns and Elections submitted in response to the Special Counsel Motion which is before the committee at today's informational hearing.

* * * * * * * *

Beverly Speer
Wisconsin Democracy Campaign
Pronouns: *She/her/hers*
203 S Paterson Street, Ste 100, Madison WI 53703-3689
(W)608-255-4260 Website: www.wisdc.org
Join us on Facebook and Twitter!

* * * * * * * *

AMERICAN OVERSIGHT

From: christa lee ruth brynwood <cinnamonsocal@gmail.com>
Sent: Monday, January 31, 2022, 3:55 PM
To: Rep.Allen@legis.wisconsin.gov; Rep.Armstrong@legis.wisconsin.gov; Rep.August@legis.wisconsin.gov; Rep.Behnke@legis.wisconsin.gov; Rep.Born@legis.wisconsin.gov; "Rep.Brandtjen" <Rep.Brandtjen@legis.wisconsin.gov>; Rep.Rob.Brooks@legis.wisconsin.gov; Rep.Cabral-Guevara@legis.wisconsin.gov; "Rep.Callahan" <Rep.Callahan@legis.wisconsin.gov>; Rep.Dallman@legis.wisconsin.gov; Rep.Dittrich@legis.wisconsin.gov; Rep.Duchow@legis.wisconsin.gov; Rep.Edming@legis.wisconsin.gov; Rep.Gundrum@legis.wisconsin.gov; Rep.Horlacher@legis.wisconsin.gov; Rep.James@legis.wisconsin.gov; Rep.Katsma@legis.wisconsin.gov; Rep.Kerkman@legis.wisconsin.gov; Rep.Kitchens@legis.wisconsin.gov; Rep.Knodl@legis.wisconsin.gov; Rep.Krug@legis.wisconsin.gov; Rep.Kuglitsch@legis.wisconsin.gov; "Rep.Kurtz" <Rep.Kurtz@legis.wisconsin.gov>; Rep.Loudenbeck@legis.wisconsin.gov; Rep.Macco@legis.wisconsin.gov; Rep.Magnafici@legis.wisconsin.gov; Rep.Moses@legis.wisconsin.gov; Rep.Murphy@legis.wisconsin.gov; Rep.Mursau@legis.wisconsin.gov; Rep.Neylon@legis.wisconsin.gov; Rep.Novak@legis.wisconsin.gov; Rep.Oldenburg@legis.wisconsin.gov; Rep.Penterman@legis.wisconsin.gov; Rep.Petersen@legis.wisconsin.gov; "Rep.Petryk" <Rep.Petryk@legis.wisconsin.gov>; Rep.Plumer@legis.wisconsin.gov; Rep.Pronschinske@legis.wisconsin.gov; Rep.Ramthun@legis.wisconsin.gov; Rep.Rodriguez@legis.wisconsin.gov; Rep.Rozar@legis.wisconsin.gov; Rep.Sanfelippo@legis.wisconsin.gov; "Rep.Schraa" <Rep.Schraa@legis.wisconsin.gov>; Rep.Skowronski@legis.wisconsin.gov; Rep.Snyder@legis.wisconsin.gov; Rep.Sortwell@legis.wisconsin.gov; Rep.Spiros@legis.wisconsin.gov; Rep.Steffen@legis.wisconsin.gov; Rep.Steineke@legis.wisconsin.gov; Rep.Summerfield@legis.wisconsin.gov; Rep.Swearingen@legis.wisconsin.gov; Rep.Tauchen@legis.wisconsin.gov; Rep.Thiesfeldt@legis.wisconsin.gov; "Rep.Tittl" <Rep.Tittl@legis.wisconsin.gov>; Rep.Tranel@legis.wisconsin.gov; Rep.Tusler@legis.wisconsin.gov; Rep.VanderMeer@legis.wisconsin.gov; "Rep.Vorpagel" <Rep.Vorpagel@legis.wisconsin.gov>; "Rep.Vos" <Rep.Vos@legis.wisconsin.gov>; Rep.Wichgers@legis.wisconsin.gov; Rep.Wittke@legis.wisconsin.gov; Rep.Zimmerman@legis.wisconsin.gov; Sen.Ballweg@legis.wisconsin.gov; Sen.Bernier@legis.wisconsin.gov; Sen.Bradley@legis.wisconsin.gov; Sen.Cowles@legis.wisconsin.gov; Sen.Darling@legis.wisconsin.gov; Sen.Felzkowski@legis.wisconsin.gov; Sen.Feyen@legis.wi.gov; Sen.Jacque@legis.wisconsin.gov; Sen.Jagler@legis.wisconsin.gov; Sen.Kapenga@legis.wisconsin.gov; "Sen.Kooyenga" <Sen.Kooyenga@legis.wisconsin.gov>; Sen.LeMahieu@legis.wisconsin.gov; Sen.Marklein@legis.wi.gov; Sen.Nass@legis.wisconsin.gov; Sen.Petrowski@legis.wisconsin.gov; Sen.Roth@legis.wisconsin.gov; Sen.Stafsholt@legis.wisconsin.gov; "Sen.Stroebel" <Sen.Stroebel@legis.wisconsin.gov>; Sen.Testin@legis.wisconsin.gov; "Sen.Wanggaard" <Sen.Wanggaard@legis.wisconsin.gov>; Sen.Wimberger@legis.wisconsin.gov; Sen.Wirch@legis.wisconsin.gov
Subject: Stop Dismissing Us

AMERICAN OVERSIGHT

Representative/Senator,

Citizens from Wisconsin have called upon you to faithfully carry out your duties to take serious action regarding the November 3, 2020 Presidential Election. Constituents from your districts and from the entire state have sent emails, affidavits, petitions, notices, made phone calls, and visited you in person demanding that you act upon their rightful request to find answers to their concerns. Our demands have been ignored or outright dismissed.

With that being said, because apparently you don't understand, I would like to tell you a bit about the people of Wisconsin that you represent. Generally speaking we are honest hard working people. We love God, our families and our country. We expect fairness and justice for all people. Some of us have formal education beyond high school and some of us do not. In either case that does not determine the level of our intelligence and quest to seek answers to our questions. We are relentless in our pursuit and we will not go away.

So, because our demands are being ignored I would like to provide you a different way of thinking. If we can not convince to do the right thing for and of the people maybe consider the following:

Wisconsin

Class H felonies:
Bribery. Wis. Stat. Ann. § 946.10.
Misconduct in public office. Wis. Stat. Ann. § 946.12.
Maximum penalties are a fine of $25,000 and 6 years imprisonment. Wis. Stat. Ann. $ 939.50.
Class I felonies:
Special privileges from public utilities. Wis. Stat. Ann. § 946.11.
Private interest in a public contract. Wis. Stat. Ann. § 946.13.
Purchasing claims at less than full value. Wis. Stat. Ann. § 946.14.
Promising to use or withhold from using official influence or vote for any thing of value. Wis. Stat. Ann. $ 19.58 & Wis. Stat. Ann. S 19.45 & Wis. Stat. Ann. $ 19.59.
Maximum penalties are a fine of $10,000 and 3 years 6 months imprisonment. Wis. Stat. Ann. § 939.50.
Class A misdemeanors:
Using corrupt means to influence legislation. Wis. Stat. Ann. S 946.17.
Maximum penalties are a fine of $10,000 and 9 months imprisonment. Wis. Stat. Ann. $ 939.51.
Violators of the Code of Ethics for Public Officials and Employees are subject to civil penalties of up to $500, or not more than $5,000, depending upon the violation. Wis. Stat. Ann. $ 19.579. In addition, criminal penalties for violating the Code include fines of between $100 and $5,000 or imprisonment of up to 1 year, or both. Wis. Stat. Ann. S

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19.58. Intentional unauthorized release of records or information is subject to a fine of not more than $10,000 or imprisonment of not

Executive Order 13818 (https://www.federalregister.gov/executive-order/13818) of December 20, 2017
Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption

I therefore determine that serious human rights abuse and corruption around the world constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and I hereby declare a national emergency to deal with that threat.

(B) to be a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in:
(1) corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery; or
(2) the transfer or the facilitation of the transfer of the proceeds of corruption;
(C) to be or have been a leader or official of:
Start Printed Page 60840
(1) an entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section relating to the leader's or official's tenure; or
(2) an entity whose property and interests in property are blocked pursuant to this order as a result of activities related to the leader's or official's tenure

This is just a simple snapshot of some of the laws you may be in violation of.

Signed,
Christa Lee R. Brynwood
1821 Iowa Street
Oshkosh, WI 54902
619-733-1686

AMERICAN OVERSIGHT

Contracted Personnel Name (Last Name, First Name)	Contracted Personnel Job Title and Level	Supplier Company Name	Engagement/ Assignment Start Date	Engagement/ Assignment End Date
PASIKANTI, KAMALAKAR	Data Warehouse Developer III	Synergy Consortium Services	01/22/2021	01/21/2024
Adepu, Prashant	Application Architect I	Synergy Consortium Services	12/18/2020	12/17/2023
Adepu, Prashant	Application Architect I	Synergy Consortium Services	07/01/2020	12/17/2020
Neis, Brian	Technical Architect II	Velocity Computing Corp.	07/01/2020	06/30/2021
Pasikanti, Kamalakar	Data Warehouse Developer III	Synergy Consortium Services	07/01/2020	01/21/2021
Patel, Anil	Programmer-Analyst - 3	Symphony Corporation	07/01/2020	06/30/2021
YELGAPURI, NARENDER	CRM Integration Architect 3	Velocity Computing Corp.	07/01/2020	06/30/2023
Adepu, Prashant	Application Architect I	Synergy Consortium Services	07/01/2019	12/17/2020
Neis, Brian	Technical Architect II	Velocity Computing Corp.	07/01/2019	06/30/2021
Pasikanti, Kamalakar	Data Warehouse Developer III	Synergy Consortium Services	07/01/2019	01/21/2021
Patel, Anil	Programmer-Analyst - 3	Symphony Corporation	07/01/2019	06/30/2021
Yelgapuri, Narender	Database Architect - 3	Beechwood Computing Limited	07/01/2019	06/30/2020
Adepu, Prashant	Application Architect I	Synergy Consortium Services	06/03/2019	12/17/2020
Neis, Brian	Technical Architect II	Velocity Computing Corp.	10/22/2018	06/30/2021
Yelgapuri, Narender	Database Architect - 3	Beechwood Computing Limited	08/27/2018	06/30/2020
Patel, Anil	Programmer-Analyst - 3	Symphony Corporation	09/24/2018	06/30/2021
Chiluvuri, RajKiran	Database Architect - 3	Beechwood Computing Limited	07/01/2018	06/30/2020
Kader, Mohideen	Application Architect I	Synergy Consortium Services	07/01/2018	12/17/2020
Pasikanti, Kamalakar	Data Warehouse Developer III	Synergy Consortium Services	07/01/2018	01/21/2021
Kader, Mohideen	Application Architect I	Synergy Consortium Services	12/18/2017	12/17/2020
Matre, Mahadeo	Database Architect - 3	Beechwood Computing Limited	07/01/2017	06/30/2020
Kader, Mohideen	Database Architect - 3	Synergy Consortium Services	07/01/2016	10/14/2018
Matre, Mahadeo	Systems Architect - 1	Beechwood Computing Limited	07/01/2016	06/30/2017
Matre, Mahadeo	Systems Architect - 1	Beechwood Computing Limited	07/01/2016	06/30/2017
Pasikanti, Kamalakar	Database Architect - 3	Synergy Consortium Services	07/01/2016	08/23/2018
Pasikanti, Kamalakar	Database Architect - 3	Synergy Consortium Services	07/01/2017	08/23/2018
Patel, Jigar	Business Intelligence Architect 3	Synergy Consortium Services	07/01/2016	04/30/2018

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Division Name	Bureau Name
Elections Commission SWEC510	Elections Commission SWEC510
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Elections Commission SWEC510	Elections Commission SWEC510
Elections Commission SWEC510	GAB - Government Accountability Board

AMERICAN OVERSIGHT

From: Rep.Brandtjen@legis.wisconsin.gov

Sent: Thursday, January 27, 2022, 10:49 AM

To: rep.brandtjen@legis.wisconsin.gov

Subject: the form Contact Me was submitted

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the form Contact Me was submitted, this is the list of values it contained, you can turn this email off under workflows in Umbraco Contour

Name
LARRY MAIER
Email
lfmaier@hotmail.com
Street Address
10529 STATE ROAD 60
City, State & Zip
CEDARBURG
Phone Number
6086175365
Message
Rep. Brandtjen,

I support you and Tim Ramthun in your actions to restore Wisconsin election integrity. I am disappointed in efforts to suppress and ignore the overwhelming corruption of the 2020 election. I will continue to pressure my Rep., Rob Brooks. I get nice letters of agreement, but know actions speak louder than words
Regards,
Larry Maier
https://rclutz.com/2022/01/26/wisconsins-long-list-of-election-infractions/
Subscribe to E-Update
False

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From: Cindy Putnam <readandsew@live.com>
Sent: Thursday, January 27, 2022, 5:59 PM
To: "rep.brandtjen@legis.wi.gov" <rep.brandtjen@legis.wi.gov>
Subject: Voting

So please tell me what is being done with those voters who are no longer alive and voted in November 2020. These numbers seem oh so high. I'm shocked. Is this going to be reported on all the news outlets?
I say everyone must be reregistered to vote every 6 years. Please clean thismess up now.
In what counties did most of the dead voters vote?
Cindy and Keith Putnam

Sent from my Verizon, Samsung Galaxy smartphone
Get Outlook for Android

AMERICAN OVERSIGHT

From: Elections PIO <Electionspio@wisconsin.gov>
Sent: Friday, January 28, 2022, 5:49 PM
To: "Rep.Brandtjen - LEGIS" <Rep.Brandtjen@legis.wisconsin.gov>
Subject: WEC & DOT Procedures Response
Attachments: 08CV4085.pdf; LAB Response Registration Data 4.2.21.pdf

Dear Representative Brandtjen,

This email is in response to your request of January 5, 2022, concerning procedures between the WEC and the DOT. There are two attached documents that fulfill your request. Unfortunately, the LAB statement on page 23 of the October report quoted in your request is not accurate. In particular, the WEC does not know where the reference to a 2005 "formal agreement" with DOT came from. Predecessor agencies worked out technical aspects of verifying voter registration information with the DOT, but 2005 procedures are unlikely to accurately reflect current processes. For example, the online voter registration (OVR) process did not exist in 2005.

Current WEC and DOT data comparisons encompass two entirely separate automatic procedures, OVRs and Help America Vote Act (HAVA) checks (now known as DMV checks), which are used to verify information provided by an individual during a voter registration. When an individual submits registration information to MyVote during an OVR, a near real-time driver's license validation occurs, and an OVR cannot be completed without a successful match against DOT data. The HAVA check is a nightly data comparison pertaining to voter registration data, including data that has already passed the OVR validation. I have attached a memo that the WEC sent the LAB during its audit that describes both procedures, along with a copy of the court case described in the memo. If you would also like a copy of the data referred to in the memo, which is too large a file to send via email, please let me know.

To the extent that this response denies any part of your public records request, the Commission's determination is subject to review in an action for mandamus under Wis. Stat. § 19.37(1), or by application to a district attorney or the Attorney General.

Sincerely,

Brandon Hunzicker
Staff Attorney
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, WI 53707-7984
Electionspio@wisconsin.gov

AMERICAN OVERSIGHT

RESPONSES TO WEC "FAQ" ITEMS REGARDING MY ANALYSIS

Jeffrey O'Donnell – 1/18/2021

Recent changes to the Wisconsin Election Commission "Frequently Asked Questions" pages have clearly been made in response to my report (as well as Jay Valentine's report) on the serious issues that have been found using the official Wisconsin Voter Roll files.

After carefully reviewing the FAQ pages, I see nothing that provides sufficient explanation to change any of the opinions I expressed in my original report.

In this document, I address the items I feel are directed at my findings as well as add a bit more context to those findings.

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Did 200,000 people vote without a photo ID?

This section goes into the “indefinitely confined” issue and has statements with no facts. If each of the incredible number of IC voters had a witness verify their identity, what process was used to validate all of them? Did they check to see if the same witness validated many people? And all the witness is doing, according to this, is verifying identity. What steps are taken to verify that the individual met the IC requirements and that the voter actually filled out the ballot (in other words, that it wasn’t just filled out by the “witness” without informing the voter?). I also see no explanation as to why the IC numbers ballooned so greatly for 2020 – they cannot use Covid as a valid explanation for this as Covid was excluded as an IC reason in Wisconsin.

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Were there “ghost" or "phantom" voters in Wisconsin’s 2020 election?

This response rebuts the argument by calling it absurd and claiming numerous items which are unproven. We see evidence that third parties do have access to the voter rolls and can alter them. We see no consistency to the “four year” rule being applied. And they “straw man” the whole “deactivate vs. delete” issue as I do not claim for my analysis that registrations are deleted, quite the opposite. This entire rebuttal hinges on the fact that we need to trust that nobody is activating and deactivating voters at the database level. Given the scope of the data issues found and documented in the rolls, this trust has not been earned.

The fact that so many application dates are wrong or defaulted in the voter rolls means that any serious attempt to purge the rolls via that “four year” rule is disingenuous at best. There are 3,808 voters in the voter rolls who are active, were registered before 2016, but have not voted since before 2016. These should be removed via the “four year” rule but still exist in the rolls in mid-2021.

I have personally discovered evidence of thousands of “phantom voters” in the November 2020 General Election in Wisconsin, and this evidence has been confirmed by other researchers.

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Why did Milwaukee County report so many ballots for Democrats in the middle of the night?

There are several problems with the logic used in this area. First off, a comparison to 2016 is invalid unless we make the assertion that the vote count in this county was fair in that election. We have made no such assertion. Secondly, the differences in third party numbers seem irrelevant to the explanation.

The fact remains that the Milwaukee County vote dump which occurred at 5:51 AM EST was the largest single update of votes in the state (211,196 combined votes for Trump and Biden) as well as the single most "Biden heavy" update in the state (80.2% Biden) for updates of more than 2,000 total votes. (If that restriction is not made, only one small county update exceeded 80.2%). Only Dane County's updates of 78.5%, 76.3%, and 74.7% (which totaled 338,946 votes) came close to this mark. As another way of expressing, this single update contained 83% of all Biden votes from the county while comprising just 52% of the total county votes for the whole election.

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Will voting equipment updates cause the loss of data and "IP logs" containing evidence of fraud from the November 2020 General Election?

Given what has been learned about Dominion Voting Systems, any county in Wisconsin which was updated to 5.13 Dominion Trusted Build lost their election data unless they did a complete backup of everything on the drives of the Election Management Server. The answer to this FAQ contains many falsehoods, half-truths, and evasions.

Installation of the Dominion "trusted build" is not like updating Windows, it entails a complete overwriting of the Election Management Server's hard drive, obliterating any previous data and files. This has been confirmed in numerous counties, including Mesa County, Colorado and Maricopa County, Arizona.

In addition, everywhere we have had the chance to examine a Dominion EMS, all of the Windows log files are set to automatically overwrite every few days, a deliberate action to leave no trace of information that would be crucial to detect everything from security intrusions to unexpected database activity.

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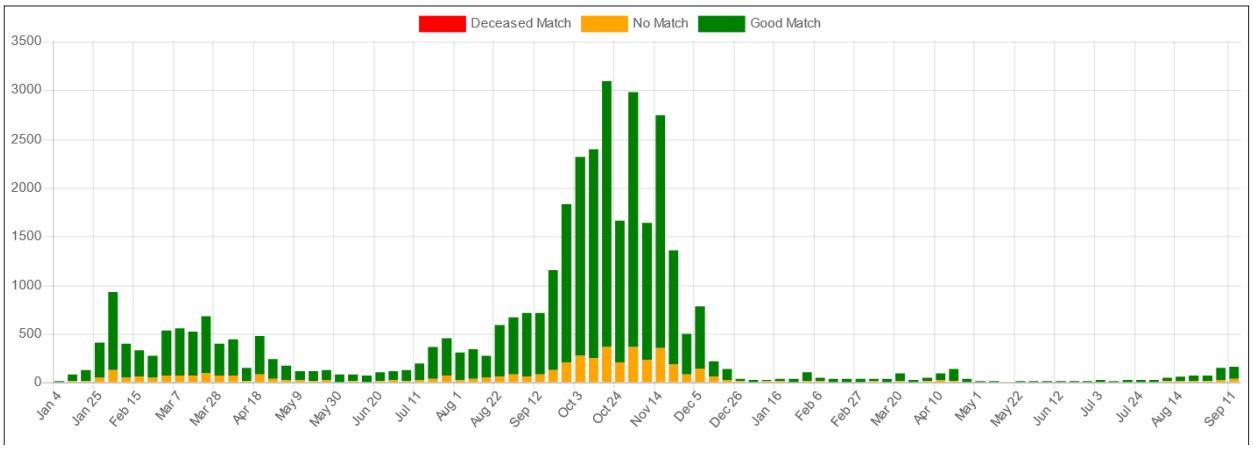
Did thousands of voters fail driver's license checks because they are not real people and possess fraudulent licenses?

Although "HAVV" registration checks are briefly mentioned, they are a part of the Wisconsin problem nonetheless. According to open records available on SSA.Gov, between September and December 2020, Wisconsin had over 2,800 HAVV voter registration checks denied for "non match" reasons, meaning that the person trying to vote did not have sufficient ID and when their information was checked against the last 4 digits of their SSN, no match was found. The following graph shows the number of HAVV checks that succeeded in green, and the ones which there were no match in yellow. This shows that in the time period around the election, approximately 12% of all Wisconsin voters whose identity was checked with HAVV failed the check, indicating that they may have been attempting to register to vote illegally.



So, to the statement "*The Wisconsin Elections Commission has not received a single substantiated report of a specific person who misrepresented their identity and/or provided a fraudulent driver's license to election officials*", I reference the above as making this statement no longer true.

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Why does the statewide voter registration database include multiple voters with birth dates of 1/1/1900 and registration dates of 1/1/1918?

This page of the FAQ makes a very cogent, psychologically compelling argument, which is rendered unusable by its lack of (damning) hard numbers.

They describe a process where tiny communities were the only ones which had a birth or registration date problem. I remind the Commission that there are in the voter roll file from mid-2021 the staggering number of 569,277 voters with the application date of 1/1/1918. That is one out of ever 14 voters in the system. 119,283 of these voters are marked as active, and 115,252 voted in November, 2020. None of these numbers are consistent with a 15 year old issue involving small towns.

Even If the "merge" excuse were valid, (which it is not), it would seem that while birthdates might not have been required, dates of application/registration should always be maintained, otherwise it is impossible to purge the rolls of inactive voters. If this critical information was not transferred to the central rolls in 2006, what steps have been made in the intervening 16 years to recover and fix this data? This merge of data occurred before the first iPhone was sold.

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Does Wisconsin have duplicate voter Registration numbers?

This section does not really answer the questions which were asked of the WEC. My report clearly labeled the registration number field as alphanumeric, which is not best practices for an ID field in a system like this. They are trying to justify this bad practice by saying the field is alphanumeric for capacity reasons. If this is so, why of the more than 7 million records in the system only 16 are not numeric?

This page also dodges the issue of why the WEC uses registration numbers of differing lengths, and sometimes issues them sequentially and sometimes in no discernable pattern. They do not reference the "gaps" in ID numbers. Until the WEC produces a detailed explanation of 1) who creates Registration Numbers and 2) what established procedure exists for each of these entities regarding creation of new registration numbers, this issue remains unanswered and very troubling.

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ADDITIONAL CONCERNS

The WEC FAQ page ignores numerous serious findings. I list them here for completeness.

- Why are there 26,259 active voters who voted in November, 2020 but have Application Dates after 11/4/2020?

- Why are there many votes with multiple, active, registrations? Are the many who voted twice in November 2020 being properly investigated for the crime?

AMERICAN OVERSIGHT

From: Elections PIO <Electionspio@wisconsin.gov>
Sent: Thursday, January 13, 2022, 3:57 PM
To: "Rep.Brandtjen - LEGIS" <Rep.Brandtjen@legis.wisconsin.gov>
Cc: "Rep.Rozar - LEGIS" <Rep.Rozar@legis.wisconsin.gov>; "Rep.Tusler" <Rep.Tusler@legis.wisconsin.gov>; "Rep.Sanfelippo - LEGIS" <Rep.Sanfelippo@legis.wisconsin.gov>; "Rep.Thiesfeldt - LEGIS" <Rep.Thiesfeldt@legis.wisconsin.gov>; "Rep.Murphy" <Rep.Murphy@legis.wisconsin.gov>; "Savage, Bill - LEGIS" <Bill.Savage@legis.wisconsin.gov>
Subject: WEC follow-up to Dec. 22 requests

Dear Representative Brandtjen and members of the Assembly Committee on Campaigns and Elections,

I'm writing today as a follow-up to the communication sent by Wisconsin Elections Commission staff to your committee on Dec. 30, 2021. In that letter we provided detailed responses to your Dec. 22 requests regarding the origin, structure, and security of WisVote, the state's registration system and voter database. We explained that agency staff would be bringing the remaining requests to the attention of the Commissioners.

During the Jan. 11, 2022, meeting of the WEC, the Commissioners discussed your requests and directed staff to process them in the same manner as any other public records request or Badger Voters data request.

Following our Dec. 30 letter answering your requests, we believe only questions five and seven may not be fully resolved.

Regarding question five, staff believe that all requested information related to WisVote — Wisconsin's current voter registration system and voter database— is being processed as a public records request by the Department of Administration and its Division of Enterprise Technology in coordination with the WEC. If you would like to submit a request for records related to prior systems that no longer exist and are no longer in use, please let me know. If you are seeking these historical records, the WEC would charge no more than $30.00 per staff hour spent locating and copying responsive records.

I am also inquiring whether you would like to submit a Badger Voters data request related to question seven. If so, please submit a request to https://badgervoters.wi.gov/ and WEC staff will process your data request and provide an estimate of what data can be produced along with the cost to produce the data.

Sincerely,

Brandon Hunzicker
Staff Attorney
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984

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Madison, WI 53707-7984
Electionspio@wisconsin.gov

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From: Elections PIO <Electionspio@wisconsin.gov>
Sent: Wednesday, January 5, 2022, 6:03 PM
To: "Rep.Brandtjen - LEGIS" <Rep.Brandtjen@legis.wisconsin.gov>
Subject: WEC Public Records Request Acknowledgement

Dear Representative Brandtjen,

The Wisconsin Elections Commission (WEC) acknowledges that it has received your public records request concerning procedures between the WEC and DOT. The WEC will contact you once its review is complete or if any questions arise.

Sincerely,

Brandon Hunzicker
Staff Attorney
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, WI 53707-7984
Electionspio@wisconsin.gov

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From: WisconsinEye Morning Minute <press@wiseye.org>
Sent: Monday, December 13, 2021, 9:00 AM
To: Janel <rep.brandtjen@legis.wisconsin.gov>
Subject: WEC Rejects Complaints Over Election Grants

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WEC Rejects Complaints Over Election Grants

On this episode of *Rewind: Your Week in Review*, WisconsinEye host and CBS 58 Reporter Emilee Fannon and WisPolitics.comJR Ross discuss the Wisconsin Elections Commission throwing out challenges to private grants issued to municipalities that helped them run elections during the pandemic.

The commission appointed outside counsel to review the complaints because they involved Administrator Meagan Wolfe. The counsel issued a draft decision,

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and it would've required at least two of the six commissioners to call for a meeting to review the draft decision. That didn't happen, and the final decision was published without a meeting or an official vote by the commission.

But, GOP appointees Dean Knudson and Bob Spindell said they missed the emails notifying them of the deadline to indicate they wanted a meeting.

Dem Chair Ann Jacobs says she believes the window to request a meeting has already passed. Even if it were possible to meet on the finding, she believes it would take four votes of the six-member commission to overrule the finding. And she points out the 30-day window for the conservatives groups to appeal has already started.

Knudson said further action by WEC would only delay the groups' right to see resolution in court. He'd still like to discuss the issue.

Meanwhile, Erick Kardaal, attorney for conservative Wisconsin Voters Alliance and Thomas More Society, said groups will appeal. They also plan a new round of complaints accusing officials in the five cities of breaking laws that prohibit accepting anything of value to vote by taking the private funds.

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Wisconsin State Legislature

Meagan Wolfe, Administrator
Wisconsin Elections Commission
PO Box 7984
Madison, Wisconsin 53707

DELIVERED ELECTRONICALLY

December 22, 2021

Dear Ms. Wolfe,

As you are aware, under Wisconsin law, the Assembly Committee on Campaigns and Elections has oversight authority over the Wisconsin Elections Commission (WEC), an executive branch agency of which you are currently serving as Executive Director. We are concerned that Wisconsin's voter rolls and voting system remain secure, protected and accurate. In fulfillment of this committee's oversight obligations and responsibilities under state law, you are ordered to provide us with the following answers and information on or before December 31, 2021:

1. Please confirm that all of the voter identification data (Voter Identification Database) contained within, used or accessed by the Wisconsin statewide voter roll system administered by your agency (Statewide System) is hosted, stored or otherwise resides on a server or servers owned and operated by the Wisconsin Department of Administration (DOA). If the Voter Identification Database is hosted elsewhere, please provide the identity of the host and any and all written or oral agreements between WEC and such host.

2. Please provide the type, specifications and version of the database software used to contain and manage the data in the Voter Identification Database (such as MySQL, Oracle, etc.) on said servers. Upon receipt of your response, we will expect the ability to: identify the software used to create the Voter Identification Database program, identify who wrote the database program, determine whether the database program was actually built by WEC staff as you declared publicly in the September 8, 2021 Senate hearing ("we actually built it ourselves here in the State of Wisconsin") or whether the database program is actually vendor-supplied database software or

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PO Box 8952 Madison, Wisconsin 53708

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components, and that the database software containing over 7 million records of Wisconsin voter data is hosted or otherwise resides securely on DOA servers.

3. Please identify the name and all technical specifications (including coding language, version and platform) of the application software used to code and run the Statewide System and whether any contractors were used to design, build or operate any portion or component of the software. It is our understanding that the Statewide System consists of a main application or platform, and coordinates WisVote, MyVote, BadgerVote, and possibly other applications, which may not be public. Please identify ALL applications that have any connectivity to the Statewide System through any application programming interface (API) or other path of connectivity giving any and all parties real time access to any function of the Statewide System or the Voter Identification Database, including contractors, vendors, non-profit or political entities and any other parties.

4. Please reveal where the Statewide System is hosted. Is the Statewide System hosted at DOA with or separate from the Voter Identification Database or is it hosted elsewhere on another server system such as Amazon© Web Services (AWS) or hosted physically at WEC itself? If the Statewide System is hosted at any place or vendor other than DOA, please provide all written and oral agreements between WEC and said host. If the Statewide System is physically hosted at WEC, please disclose which room or office number it is located in and provide security logs of who has authorized physical access to that room or rooms.

5. Please provide a copy of any and all procurement agreements, requests for proposals, bid requests, bid invitations and all technology agreements, technology employment agreements and other agreements related to coding, designing, structuring, envisioning, updating, editing, writing or otherwise manipulating in any way, the Voter Identification Database or the Statewide System that WEC, or any of its predecessors, is or has been a party to over the past 20 years. This request requires you to produce copies of all procurement or other agreements entered into by WEC, or its predecessors, with any other parties under Wisconsin procurement procedures relying upon the technique known as "piggybacking" on other existing state procurement contracts.

6. Please provide all logs and registries (as commonly understood in database and application and internet usage), of ALL types, whether defined herein or not, including, but not limited to, registry logs, access logs, data change logs, login logs and all other logs recording all digital activities occurring within the Statewide System and the Voter Identification Database.

7. Please provide all logs, registries or records of any kind recording all changes to the status of every voter, active and inactive, contained in the 7 million record Voter Identification Database or

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the Statewide System. Such logs, registries and other records must specifically show the time and date a voter is registered in the Voter Identification Database and Statewide System, who registered the person to vote and each and every status change of every voter when turned inactive, reactivated and or turned back inactive.

8. Please provide an exact copy of the API code or software that allowed any and all private, for-profit, non-governmental, non-profit, political party or any type of lobbying or advocacy group to directly access WisVote, MyVote or any other part of the Statewide System or the Voter Identification Database at any time during the years of 2020 and 2021. Please also provide logs, registries and any other records of the times and dates any or all of these parties accessed the Statewide System or the Voter Identification Database, or any other data system operated or controlled by the State of Wisconsin in 2020 and 2021.

9. Please provide a list of all voters referred by the Electronic Registration Information Center to WEC or to Wisconsin clerks in 2020 and 2021, including the specific communication, the name of each voter and their address, driver's license number, date of birth and the date referred to WEC or any Wisconsin Clerk.

Thank you for your attention to this matter.

Representative Janel Brandtjen

Representative Joe Sanfelippo

Representative Jeremy Thiesfeldt

Representative Dave Murphy

Representative Donna Rozar

Representative Ron Tusler

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STATE CAPITOL
PO Box 8952 Madison, Wisconsin 53708

Wisconsin State Legislature

Meagan Wolfe, Administrator
Wisconsin Elections Commission
PO Box 7984
Madison, Wisconsin 53707

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the Statewide System. Such logs, registries and other records must specifically show the time and date a voter is registered in the Voter Identification Database and Statewide System, who registered the person to vote and each and every status change of every voter when turned inactive, reactivated and or turned back inactive.

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Thank you for your attention to this matter.

Representative Janel Brandtjen

Representative Joe Sanfelippo

Representative Jeremy Thiesfeldt

Representative Dave Murphy

Representative Donna Rozar

Representative Ron Tusler

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STATE CAPITOL
PO Box 8952 Madison, Wisconsin 53708

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For Additional Information, contact WIteam@CFEIpac.com

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From: Erick Kaardal <kaardal@mklaw.com>
Sent: Sunday, January 9, 2022, 6:43 AM
To: Janel Brandtjen <Rep.Brandtjen@legis.wi.gov>; "Duesterbeck, Melodie" <Melodie.Duesterbeck@legis.wisconsin.gov>
Subject: WI update --- Circuit Court "Election Bribery" Complaints/Appeals Filed
Attachments: Madison - Summons & Complaint with Ex 1-6-22 (new pdf).pdf; Kenosha - Summons & Complaint with Ex 1-6-22 (new pdf).pdf; Green Bay - Summons & Complaint with Ex 1-6-22 (new pdf).pdf; Racine - Summons & Complaint with Ex 1-6-22 (new pdf).pdf; Milwaukee - Summons & Complaint with Ex 1-6-22 (new pdf).pdf

---

Dear Janel:

Please find attached the 5 “election bribery” complaints filed yesterday in Milwaukee County, Dane County, Brown County, Kenosha County and Racine County Circuit Courts. These complaints constitute appeals from the Wisconsin Elections Commission’s decision not to investigate the underlying matters.

I propose to you another informational hearing before your committee to discuss what went wrong at WEC: why wasn’t election bribery under section 12.11 investigated? Thanks.

Thank you.

egk

Erick G. Kaardal
Mohrman, Kaardal and Erickson, P.A.
150 S. Fifth St., Ste. 3100
Minneapolis MN 55402
612-341-1074
f. 612-341-1076

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