

# The Challenge Process for Candidate Nomination Paperwork in Milwaukee County

## What is a nomination paper challenge?

A nomination paper challenge is a verified statement or complaint that alleges a candidate's nomination papers are insufficient, and that such insufficiency causes an individual to have less than the minimum number of signatures required to be placed on the ballot for the office for which they are running.

The process for filing a nomination paper challenge is contained the Wisconsin Administrative Code § EL 2.07. Nomination paper requirements for nonpartisan and partisan office are contained in Wis. Stat. §§ 8.10, 8.15 and 8.30 and Wis. Admin. Code § EL 2.05. As part of a nomination paper challenge, individuals could also challenge other candidate qualifications and required paperwork, which if accepted, could cause a candidate to be deemed ineligible for ballot placement under Wis. Stat. § 8.30. Candidates that file nomination papers are also required to file a campaign registration statement, declaration of candidacy and in some cases a statement of economic interests.

For more information regarding common challenges and how issues have been decided previously, review the "Common Nomination Paper Challenges" manual on the Wisconsin Elections Commission and Milwaukee County Election Commission websites.

## Can someone view candidate nomination papers or other ballot access documents?

A copy of candidate nomination papers and ballot access documents, such as the declaration of candidacy and campaign finance registration statement, may be requested from the Milwaukee County Election Commission (MCEC) via open records request. Upon submission, all nomination papers are scanned and posted for public consumption on the MCEC's webpage.

## Who may challenge a candidate's eligibility, nomination papers, or other ballot access documents?

Anyone who has valid information that content contained in the papers or other ballot access documents violates the rules or state statutes applying to those documents may file a challenge. The burden of proof is on the challenger to establish any insufficiency, and if the challenger establishes the information is insufficient, the burden shifts to the challenged candidate to establish sufficiency.

## How is a challenge filed?

A sworn complaint listing the insufficiencies and citing the statutes/rules that are violated must be submitted in writing to the filing officer for the office in which the candidate is seeking ballot access. A template for a sworn affidavit can be found in the Elections Administrative Code EL 20.03(2) but is not required to be used. The complaint must be filed with the filing officer within 3 calendar days of the nomination paper filing deadline.

## **Who is the filing officer?**

The filing officer is the person/office with whom candidate paperwork is filed for a specific office. For county level contests in Milwaukee County, the filing officer is the Milwaukee County Election Commission, 901 N. 9th Street, Room G10, Milwaukee, WI 53233.

## **What happens when a challenge is filed?**

The filing officer notifies the candidate whose papers or eligibility are being challenged and arranges for a copy of the challenge to be provided within 24 hours of the challenge being filed.

A verified or sworn response to the challenge must be filed by the candidate to the filing officer within 3 calendar days<sup>1</sup> of the challenge being filed. A verified or sworn response must be notarized or otherwise sworn before an official authorized to administer oaths in accordance with Wis. Stat. §887.01.

The Board of Milwaukee County Election Commissioners will decide the challenge before the candidate certification deadline using the evidence provided by the two parties and issues a decision regarding the outcome of the complaint. This decision will serve as record for any potential appeals, along with any other materials submitted as part of the challenge process.

## **What if the challenger does not agree with the decision of the Milwaukee Board of Election Commissioners?**

The challenger or candidate may file an appeal of the decision to the Wisconsin Elections Commission through the submission of a written, sworn statement or the EL1100 Elections Complaint form. For more information about filing an appeal, see Wis. Stat. § 5.06 which provides guidelines about complaints and which the Commission is required to use during the appeals process as well. The appeal must be filed no later than 10 days after the party knew, or should have known, about the violation of law or abuse of discretion by the filing officer. Wis. Stat. §5.06(3). For complaints about ballot access decisions, it is recommended that any such complaints be filed immediately, so that the appeal may be heard prior to ballot printing and distribution deadlines.

## **What if my question is not answered here?**

You may reach out to the Milwaukee County Election Commission at 414-278-4060 or by email at [elections@milwaukeecountywi.gov](mailto:elections@milwaukeecountywi.gov). Be advised that Election Commission staff are prohibited from giving legal advice. It is recommended that if you are interested in filing a challenge, or an appeal to a decision of the Milwaukee County Board of Election Commissioners, that you contact your own legal counsel or the Wisconsin Election Commission at 608-266-8005.

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<sup>1</sup> If the deadline falls on a Sunday, the response may be filed the next day. (See Wis. Stat. §990.001(4)(b))