



Wisconsin Elections Commission

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MEMORANDUM

DATE: November 12, 2020

TO: Interested Parties

FROM: Meagan Wolfe
Administrator

SUBJECT: Information Regarding Potential Recount for Office of President/Vice President – 2020 General Election

The Wisconsin Elections Commission (“WEC” or “Commission”) staff has received questions from voters, political parties, media, legislators, and others regarding a potential recount of the votes cast for President/Vice-President at the November 3, 2020 General Election.

Wisconsin recounts are governed by Wis. Stat. § 9.01. Based on the unofficial results gathered from county clerks’ websites, the margin between the leading candidate and the second-place candidate is 20,427 votes, or 0.620%. Based on this calculation, the race is within the 1% margin required by state law for the second-place candidate to qualify as an “aggrieved party” to request a recount. The unofficial spreadsheet itemizing this calculation can be found here <https://elections.wi.gov/node/7234>.

Only an aggrieved party is permitted to file a verified petition for recount once the official canvasses at the county level are completed. According to statute, because the anticipated margin between the leading candidate and the aggrieved party exceeds .25%, the aggrieved party is required to prepay the full, estimated cost of conducting the recount at the time of filing the verified petition.

The following information is provided to answer some of the questions posed to the WEC staff about a potential recount.

1) How will candidates and other interested parties know when the last county canvass statement has been filed with the Commission?

The recount statute says that a verified recount petition, along with any estimated fee, must be filed with the Commission “no later than 5 p.m. on the first business day following the day on which the commission receives the last statement from a county board of canvassers.” The Commission’s website maintains a list of when the county boards of canvass have submitted the signed statement to the Commission here: <https://elections.wi.gov/node/7239>. Commission staff will also notify representatives of the leading candidate and the aggrieved party via email and/or phone call as soon as Commission staff receive the last signed

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statement from a county board of canvass and review the filing for completeness and accuracy, which sets the “next business day” deadline to file a recount petition.

2) How will the 5:00 p.m. deadline be determined?

The Commission maintains an official atomic clock located in the Commission’s office, which is automatically set to official Central Standard, U.S. time maintained by the National Institute of Standards and Technology (<https://www.time.gov/>). Both the verified recount petition and any estimated fee must be received by the Commission no later than 5:00 p.m. as displayed on the official clock. A recount petition or prepayment of the estimated fee received after 5:00 p.m. on the deadline will be considered late. A recount petition received prior to 5:00 p.m. and prepayment of the estimated fee received after 5:00 p.m. will be considered late. A recount petition received after 5:00 p.m. and prepayment of the estimated fee received prior to 5:00 p.m. will be considered late.

3) Who needs to sign and verify the recount petition?

As the recount petitioner, the candidate who qualifies as the aggrieved party is the individual who must sign and verify the recount petition. Wis. Stat. § 9.01(1)(a)1. There are no provisions in the recount statute that allow a representative of the candidate to sign and verify the recount petition. To be considered timely and for the Commission to consider the petition, the candidate would need to complete all required fields on the recount petition form found here <https://elections.wi.gov/forms/EL-186>.

4) Does the recount petition need to be filed in person at the Commission’s office or can it be received electronically no later than 5:00 p.m. on the deadline?

The verified recount petition can be filed by the aggrieved party’s representative in person at the Commission’s office no later than 5:00 p.m. as indicated on the official clock maintained by the Commission (see Answer to #2). The verified recount petition can also be filed electronically by email or FAX in accordance with Wis. Admin. Code EL § 6.04. If filed by email or FAX, a copy of the original petition must be received by the 5:00 p.m., Central Standard time, deadline and the original must then be sent bearing a postmark not later than the deadline, or delivered to the Commission’s office not later than 5:00 p.m.

5) How can pre-payment of the estimated fee be submitted to the Commission?

The statute states that all estimated fees “shall be prepaid in cash or another form of payment which is acceptable to the officer to whom they are paid.” Wis. Stat. § 9.01(1)(ag)1. The Commission requires the method of payment for the anticipated sum to be an electronic transfer of funds (instructions to be provided) or a cashier’s check for the exact estimated amount. The electronic transfer of funds would need to be completed prior to the 5:00 p.m. deadline. A cashier’s check would need to be in the possession of the Commission prior to the 5:00 p.m. deadline.

6) When will the cost estimate be available?

Commission staff have asked all 72 counties (the county boards of canvass conduct the recount) to provide the Commission with their estimated costs for conducting the recount by Friday, November 13, 2020. Once Commission staff have aggregated the estimates from the 72 counties, it will contact the aggrieved party and the leading candidate and provide them the estimated amount. The Commission staff will also post the information to its website.