



Elections Administration

The Wisconsin Elections Commission (WEC) is responsible for ensuring compliance with state and federal election laws, and county and municipal clerks administer elections. Statutes require WEC to provide training and guidance to municipal clerks in the state's 1,849 municipalities. Statutes also require WEC to design and maintain the state's electronic voter registration system, which is known as WisVote, and approve electronic voting equipment before it can be used in Wisconsin.

After the General Election on November 3, 2020, questions were raised about elections administration issues. On February 11, 2021, the Joint Legislative Audit Committee directed us to evaluate such issues, including:

- efforts by WEC to comply with election laws, including by working with clerks to ensure voter registration records include only eligible voters, and by providing training and guidance to clerks;
- efforts by clerks to comply with election laws, including by administering elections, processing absentee ballots, and performing recount responsibilities, as well as the observations and concerns of clerks regarding elections administration;
- the use of electronic voting equipment, including the methodology and results of WEC's most-recent statutorily required post-election audit and the actions taken as a result of this audit; and
- General Election-related complaints filed with WEC and clerks, as well as how these complaints were addressed.

Because our audit was not approved until three months after the November 2020 General Election, we did not directly observe Election Day practices. Therefore, to complete this audit we relied on available evidence we were able to access. We contacted WEC's staff, surveyed all 1,835 municipal clerks and 72 county clerks in April 2021, contacted 179 clerks to obtain additional information about elections administration issues, analyzed voter registration data, physically reviewed 14,710 certificates that accompanied absentee ballots returned to clerks in 29 municipalities throughout the state, reviewed the results of 175 statutorily required tests of electronic voting equipment that clerks in 25 municipalities completed before the November 2020 General Election, and reviewed all 45 sworn, written complaints pertaining to the General Election that were filed with WEC as of late-May 2021.

We make 30 recommendations to WEC's staff for various improvements and include 18 issues for legislative consideration.

Efforts by WEC to Comply with Election Laws

We analyzed issues pertaining to voter registration data, ERIC data, and the training WEC's staff provided to municipal clerks

WEC and clerks use data from three state agencies to help maintain the accuracy of voter registration records

WEC and clerks share responsibility for maintaining the accuracy of voter registration records. Statutes require clerks to use WisVote to verify the accuracy of information provided by individuals who register to vote.

Statutes require WEC and the Department of Transportation (DOT) to attempt to verify personally identifiable information provided by individuals registering to vote with information on vehicle registrations, driver's licenses, and state identification cards. We found that the personally identifiable information provided by 93.8 percent of the 957,977 individuals who registered to vote from January 1, 2020, through November 3, 2020, matched DOT's information.

In examining the voter registration records of all individuals who voted absentee in the November 2020 General Election, we found 70 records in which either driver's license or state identification card numbers matched the numbers in 70 separate records. The names and dates of birth of individuals associated with 24 of the 70 records matched similar information in 24 other records, suggesting that the 24 individuals had two active voter registration records. The data indicated that 4 of the 24 individuals may have voted twice in November 2020. We provided WEC's staff with the names of these 24 individuals.

WEC obtains personally identifiable information related to deceased individuals from the Department of Health Services (DHS) and information related to those with ongoing felony sentences from the Department of Corrections (DOC). WisVote automatically compares this information with personally identifiable information in voter registration records and notifies the relevant clerks whenever potential matches are made. WEC's staff instruct clerks to either inactivate a given record or determine that the potential match was erroneous and allow a given record to remain active.

We analyzed the extent to which clerks had acted on the potential matches from January 1, 2020, through November 3, 2020, including 33,473 potential matches based on information from DHS and 2,256 potential matches based on information from DOC. If a clerk does not act on a potential match for a given individual, WEC's staff are uncertain whether the voter registration record is accurate. As of June 2021, clerks had either inactivated the voter registration records or allowed the records to remain active for all but eight individuals associated with potential matches based on information from DHS. As of September 2021, clerks had done so for one individual associated with potential matches based on information from DOC.

WEC did not have written data-sharing agreements with DOT or DHS at the time of our audit, and its agreement with DOC contained outdated information. We recommend WEC’s staff work with WEC to execute agreements with these three state agencies and improve how they identify potentially duplicate voter registration records.

WEC did not regularly obtain all types of data from ERIC in recent years

Statutes require WEC to belong to the Electronic Registration Information Center (ERIC), which is a nonprofit organization that helps member states to improve the accuracy of their voter registration systems by providing personally identifiable information on certain individuals.

WEC can request that ERIC provide it with five types of data, including data on registered voters who may have voted multiple times in the same election as well as data on registered Wisconsin voters who may have moved within Wisconsin, moved to and registered to vote in other states, or submitted new address information to the National Change of Address program.

ERIC data can help to ensure that Wisconsin’s voter registration records are accurate and complete. From September 2016 to May 2021, WEC did not regularly obtain all five types of ERIC data. We recommend that WEC’s staff work with WEC to establish a schedule for regularly obtaining each type of ERIC data.

ERIC Data That WEC Obtained, by Type¹
As of July 2021

Type of Data	Sept. 2016	Sept. 2017	June 2018	Aug. 2019	Sept. 2019	May 2020	May 2021
Eligible Residents who are not registered to vote	✓		✓			✓	
Registered Voters Who may have moved ²		✓		✓			✓
Who may have voted multiple times in the same election					✓		
Who may have died in other states							✓
Who may have multiple voter registration records in Wisconsin							✓

¹ According to information provided by WEC’s staff.

² Refers to registered voters who may have moved within Wisconsin, moved to and registered to vote in other states, or submitted new address information to the National Change of Address program.

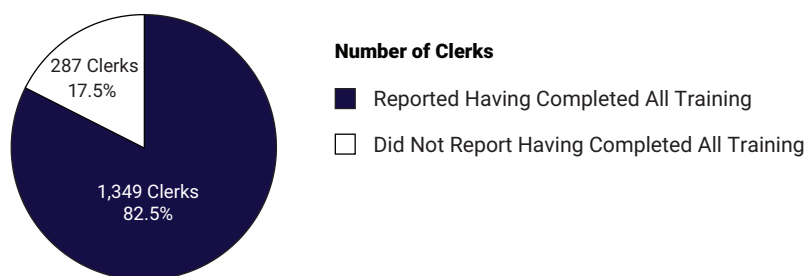
WEC’s staff should contact municipal governing bodies when municipal clerks do not report having completed all required training

Statutes require each municipal clerk to attend WEC-approved training at least once every two-year period that begins on January 1 of an even-numbered year and ends on December 31 of the following year. WEC’s administrative rules require a clerk to attend three hours of training

in order to receive initial certification and an additional three hours of training to maintain certification for the following two-year period. For the two-year period that ended in December 2019, 82.5 percent of municipal clerks reported having completed all required training.

Municipal Clerks Who Reported Completing Training for the Period from January 2018 through December 2019¹

Reported to WEC as of June 2021



¹ Excludes 175 municipal clerks who started in their positions in January 2020 or later and 1 vacant clerk position.

WEC's administrative rules require WEC to notify the governing body of a given municipality if a municipal clerk does not complete the statutorily required training. WEC's staff indicated that they did not contact any governing bodies if clerks did not report having completed required training for the two-year period that ended in December 2019. Instead, WEC's staff indicated that they contacted clerks and attempted to elicit their cooperation in completing and reporting the training.

Efforts by Clerks to Comply with Election Laws

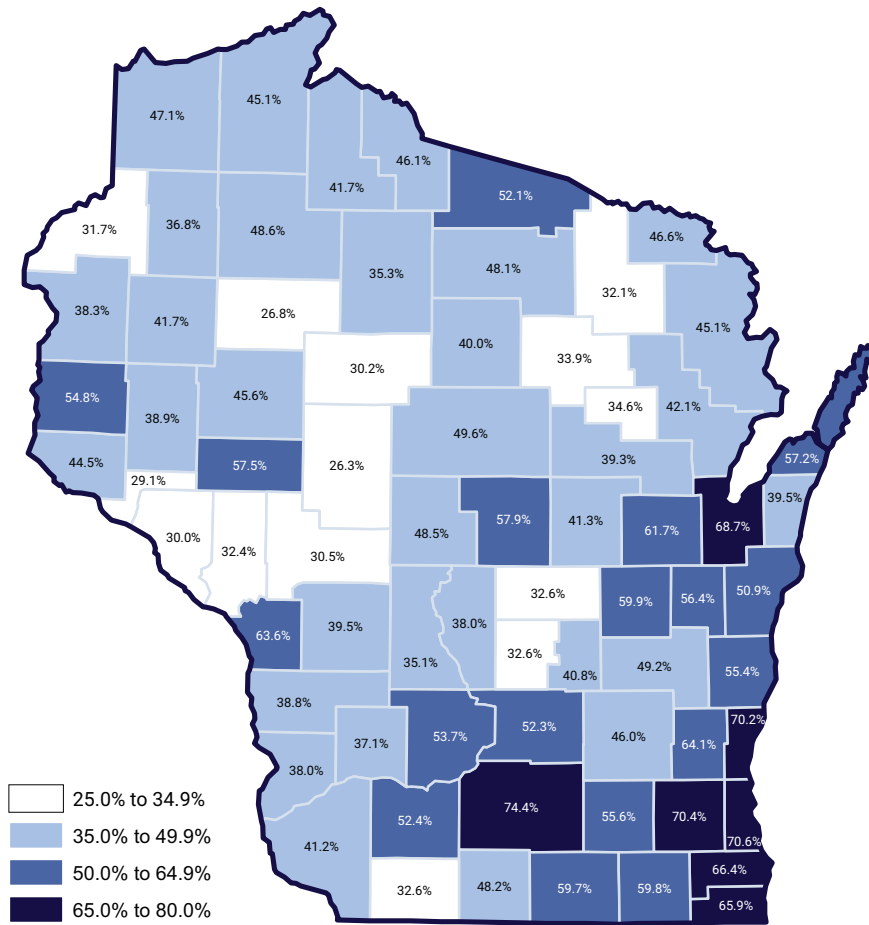
We analyzed issues pertaining to absentee ballot certificates, ballot drop boxes, indefinitely confined individuals, special voting deputies, ballot processing, and recount costs

We reviewed 14,710 absentee ballot certificates in 29 municipalities throughout the state

In the November 2020 General Election, almost 2.0 million absentee ballots were cast, which was 59.6 percent of all ballots cast. Absentee ballots as a proportion of all ballots cast ranged from 74.4 percent in Dane County to 26.3 percent in Clark County.

An individual voting by absentee ballot typically must complete a certificate that includes statutorily required information, including the signature of the individual and the address and signature of a witness. Typically, certificates are the envelopes in which absentee ballots are returned to clerks.

Absentee Ballots as a Proportion of All Ballots Cast, by County¹
November 2020 General Election



¹ According to information in WisVote as of September 2021.

We reviewed 14,710 certificates for absentee ballots cast in 29 municipalities in order to determine the extent to which they contained statutorily required information. Our review found:

- 1,022 certificates (6.9 percent) had partial witness addresses;
- 15 certificates (0.1 percent) did not have a witness address in its entirety;
- 8 certificates (less than 0.1 percent) did not have a witness signature; and
- 3 certificates (less than 0.1 percent) did not have a voter signature.

Go to <https://legis.wisconsin.gov/lab/21-19map1> to view an interactive map: Review of a Sample of Absentee Ballot Certificates from 29 Municipalities.

Statutes require municipal clerks to write their initials on certificates in certain situations, including when individuals request absentee ballots in person at clerk offices, and statutes indicate that a ballot must not be counted if such a certificate is not initialed. We found that less than 1.0 percent of all certificates we reviewed in four municipalities contained clerk initials. Clerks at these municipalities indicated that they did not initial certificates for multiple reasons, including because the individuals who requested the ballots were registered and eligible to receive them; the clerks printed the names and addresses of the individuals on the certificates to signify the individuals were eligible to receive the ballots; and the clerks initialed the ballots rather than the certificates. We question whether the clerks in these four municipalities consistently complied with the statutory requirement for them to initial certificates in certain situations.

If WEC believes municipal clerks should be permitted to correct or add missing witness address information to certificates, WEC's staff should work with WEC to promulgate administrative rules to permit clerks to take such actions. Promulgating administrative rules allows the Governor and the Legislature to participate in the process of determining how clerks are to act when they receive certificates that do not have statutorily required information, and administrative rules carry the force of law.

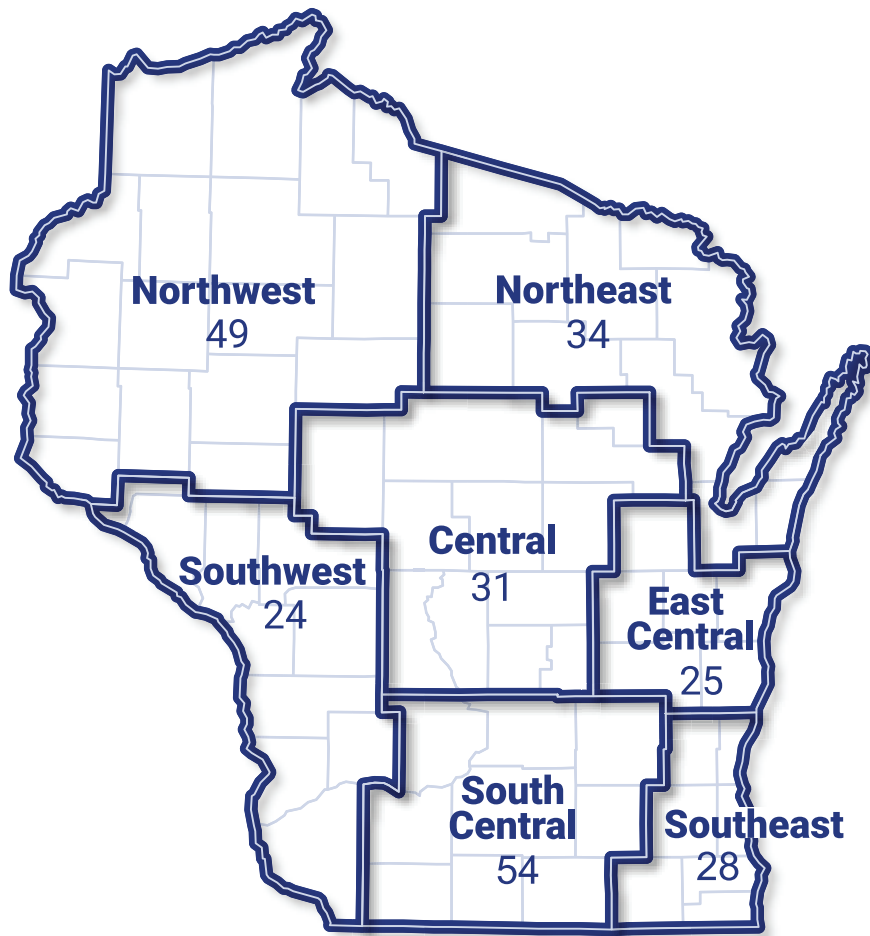
WEC's staff should promulgate administrative rules if WEC believes municipal clerks should be permitted to establish drop boxes or not send special voting deputies to certain facilities and homes

Statutes require a certificate to be mailed by the individual, or delivered in person, to the municipal clerk who issued the ballot. Statutes do not permit or prohibit ballot drop boxes. In March 2020, WEC's staff issued written guidance indicating that municipal clerks can allow individuals to return absentee ballots to drop boxes. In response to our survey, 245 municipal clerks (28.7 percent of 855 clerks that responded to our survey) indicated that they used ballot drop boxes for the November 2020 General Election.

Statutes allow individuals to sign statements indicating they are indefinitely confined because of age, physical illness, or infirmity, or because they are disabled for an indefinite period. In the November 2020 General Election, 220,404 indefinitely confined individuals voted. WEC's data indicated that 171,850 of these individuals had previously provided photo identification, and 48,554 individuals had not previously voted by methods that required them to have provided photo identification or did not have photo identifications on file with clerks. In December 2020, the Wisconsin Supreme Court ruled that individuals must decide whether they are indefinitely confined.

Statutes set forth the exclusive means of absentee voting in person in residential care facilities and qualified retirement homes. A clerk must appoint at least two special voting deputies to supervise absentee voting by individuals living in such facilities and homes. In June 2020, during the public health emergency, WEC issued written guidance directing clerks not to send or attempt to send special voting deputies to facilities and homes but to instead mail absentee ballots to individuals living in these facilities and homes who requested the ballots. This guidance did not comply with statutes.

Number of Municipalities That Used Ballot Drop Boxes, by Region¹
November 2020 General Election



¹ As indicated by 245 municipal clerks who responded to our April 2021 survey.

WEC's staff should promulgate administrative rules if WEC believes municipal clerks should be permitted to take certain actions pertaining to counting ballots and establishing polling places

Statutes permit a municipal governing body to specify by ordinance that absentee ballots will be counted on Election Day at a central location, rather than at each polling place. During the November 2020 General Election, 39 municipalities counted absentee ballots at central count locations.

Statutes require poll workers to remake ballots if, for example, the electronic voting equipment cannot read ballots in poor condition, individuals select more candidates than allowed in a given contest, or individuals who are in the military or overseas return electronic ballots. Absentee ballots may be rejected if, for example, the accompanying certificates are

incomplete. Our review of 662 Election Day forms that poll workers completed for the central count locations in the 39 municipalities found that:

- 12,237 ballots were remade (1.4 percent of all ballots cast in these municipalities); and
- 633 absentee ballots were rejected (less than 0.1 percent).

Statutes require elections officials to count ballots without adjourning until the counting is completed. In October 2020, WEC’s staff issued written guidance indicating that although statutes do not permit adjourning while counting ballots and that clerks should complete all required tasks before adjourning on Election Night, inevitable circumstances may require adjourning until the following day. This written guidance did not comply with statutes.

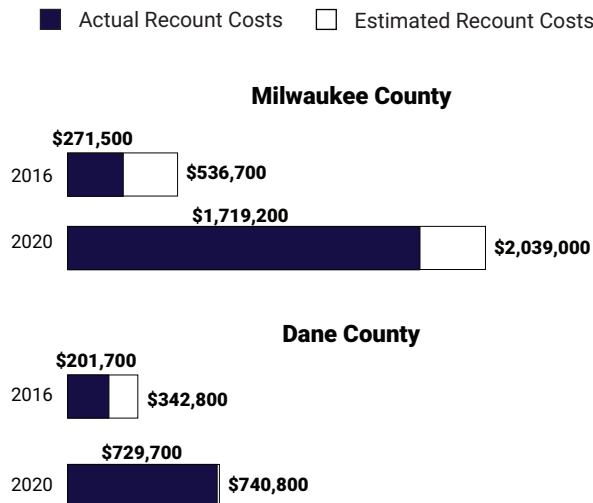
Statutes require a municipal governing body to establish polling places at least 30 days before an election. In March 2020, during the public health emergency, WEC approved written guidance indicating that municipal clerks can relocate polling places without approval from municipal governing bodies. As of August 2021, WEC had not retracted or modified its written guidance, which did not comply with statutes.

In Milwaukee and Dane counties, estimated and actual recount costs increased considerably from 2016 to 2020

Upon receiving a recount petition from a candidate who lost an election by no more than 1.0 percent of the votes cast, statutes require either clerks or WEC to estimate the cost of the recount.

In both Milwaukee and Dane counties, the estimated recount costs and the actual recount costs increased considerably from 2016 to 2020. In both counties, the actual recount costs in 2016 were

Estimated and Actual Recount Costs for Recounts Conducted after the November 2016 and November 2020 General Elections¹



¹ According to information that counties provided to WEC.

lower than the estimated recount costs, and the actual recount costs in 2020 were lower than the estimated recount costs. Statutes do not require WEC to ensure that the estimated costs and the actual costs are reasonable and appropriate.

Two other midwestern states limit recount costs that can be charged to petitioning candidates. Minnesota requires jurisdictions where recounts are conducted to make available at no cost all necessary equipment and facilities, and Michigan requires petitioning candidates to pay statutorily predetermined amounts.

Use of Electronic Voting Equipment

We analyzed issues pertaining to electronic voting equipment and the post-election audit that WEC was statutorily required to complete

We reviewed the results of 175 tests of electronic voting equipment that municipal clerks conducted before the November 2020 General Election

Statutes require municipalities with 7,500 or more people to use electronic voting equipment, and all municipalities must equip each polling place with accessible voting equipment. In the November 2020 General Election, 1,178 municipalities (63.7 percent) used automatic tabulating equipment, 622 municipalities (33.6 percent) used direct recording equipment to electronically count some ballots and hand-counted other ballots, and 49 municipalities (2.7 percent) hand-counted all ballots.

Our review of 175 pre-election test results in 25 municipalities found that clerks conducted 50.3 percent of the tests within 10 days before the November 2020 General Election, as required by statutes. We found that 59 of 60 test results we reviewed in greater detail indicated that the equipment had accurately counted the votes for presidential candidates. One test result included insufficient documentation, which prevented us from making a determination.

Go to <https://legis.wisconsin.gov/lab/21-19map2> to view an interactive map: Review of a Sample of Pre-election Tests Conducted by 25 Municipalities.

Statutes require each piece of electronic voting equipment that will count ballots to have a tamper-evident seal. On Election Day, statutes require poll workers to sign an Election Day form indicating that they certify the integrity of the seals. Our review of 589 forms from a random sample of 319 municipalities found that:

- 513 forms (87.1 percent) contained the expected initials of poll workers; and
- 76 forms (12.9 percent) did not contain all expected initials, which may indicate that the poll workers found problems with the seals or forgot to initial the forms.

Statutes require WEC to promulgate administrative rules that ensure the security, review, and verification of the software components used with electronic voting equipment approved by WEC. WEC's administrative rules contained provisions for reviewing and verifying the equipment, but we found that WEC's administrative rules did not address security-related issues.

We recommend WEC's staff provide additional training to clerks on completing the pre-election tests, reviewing Election Day forms, and investigating relevant issues, including those related to tamper-evident seals. We also recommend WEC's staff work with WEC to promulgate the statutorily required administrative rules for helping to ensure the security of software components used with electronic voting equipment.

WEC's staff should comply with statutes by calculating an error rate for each type of electronic voting equipment used in a General Election

After each General Election, statutes require WEC to audit the performance of each type of electronic voting equipment. In February 2021, WEC's staff reported that municipal clerks and local election officials had hand-counted 145,100 ballots cast in the November 2020 General Election. WEC's staff reported that the post-election audit determined the electronic voting equipment for the most part accurately counted ballots, but that one type of equipment erroneously counted creases in absentee ballots as votes for write-in candidates. WEC's staff determined that this issue resulted from how the equipment had been programmed, and that this issue did not change the outcome of any contest.

Statutes require WEC to determine an error rate for each type of electronic voting equipment after each General Election. WEC's staff did not report to WEC the statutorily required error rates for any electronic voting equipment used in the November 2020 General Election.

In Wisconsin, a post-election audit determines whether the electronic voting equipment counted ballots according to how it was programmed to count them. A risk-limiting audit, which is conducted in some other states, uses statistical methods to review a sample of ballots cast in order to determine voter intent and the validity of the election results.

General Election-related Complaints Filed with WEC and Clerks *We analyzed issues pertaining to complaints filed with WEC and municipal and county clerks*

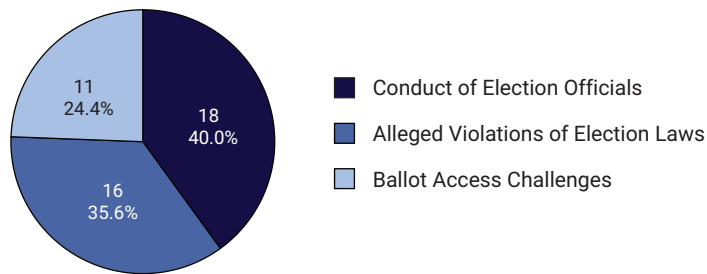
Most clerks who responded to our survey indicated they had received no written complaints about the November 2020 General Election

In response to our survey, 791 municipal clerks (93.3 percent of those who responded) and 38 county clerks (64.4 percent) indicated they had received no written complaints about the November 2020 General Election. However, 57 municipal clerks and 21 county clerks indicated they had each received from 1 to 25 written complaints. Clerks indicated that the two most-common types of written complaints they received pertained to absentee ballots and alleged voter fraud.

WEC received 45 sworn, written complaints about the November 2020 General Election

Statutes allow WEC to investigate sworn, written complaints about alleged violations of election laws, as well as sworn, written complaints submitted by electors alleging that election officials acted contrary to the law in administering elections. As of late-May 2021, WEC had received 45 complaints regarding the November 2020 General Election. As of early-June 2021, 25 complaints were dismissed, 6 complaints were not yet resolved, 2 complaints were withdrawn, and 1 complaint resulted in a decision to direct an election official to follow election laws. The remaining 11 complaints concerned ballot access challenges, which challenge the nomination papers of candidates for elected office or the eligibility of candidates for elected office.

Sworn, Written Complaints about the November 2020 General Election That Were Filed with WEC as of Late-May 2021



From January 2020 through mid-April 2021, 1,521 election-related concerns were provided to WEC through forms on its website. Concerns are not sworn complaints. WEC's staff did not track whether or how they responded to concerns, and we recommend they do so.

WEC's staff informed WEC about the status of submitted complaints and handled complaints in a timely manner. Although WEC's staff relied on statutes to consider complaints, as well as administrative rules for considering complaints about the conduct of election officials, administrative rules for considering complaints alleging violations of election laws are no longer in effect. We recommend WEC's staff work with WEC to promulgate administrative rules for considering complaints alleging violations of election laws.