Evidence lacking in GOP case against top Wisconsin election official Meagan Wolfe

*Critics have railed against many Wisconsin Elections Commission decisions, but they were made by bipartisan commissioners, not the administrator*

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On Nov. 4, 2020, Meagan Wolfe hosted a virtual press conference to provide updates about Wisconsin’s 2020 presidential election results and answer questions about how the election was conducted.

During the briefing, Wolfe, who serves as the nonpartisan administrator of the bipartisan Wisconsin Elections Commission, was asked to respond to unfounded allegations of voter fraud lobbed by then-President Donald Trump — claims that started on election night and culminated, months later, in the [Capitol insurrection](https://www.nytimes.com/live/2023/08/01/us/trump-indictment-jan-6) on Jan. 6, 2021.

“I won’t respond to that,” Wolfe said. “But as I always do, I’m happy to talk about the facts of how elections work. And elections are such a deliberate, meticulous process, where each of our local election officials in our local communities are conducting this process in a public setting. Every piece of data is publicly available, and so there is no opportunity to add additional votes to the tally.”

She continued, “So I think that it’s insulting to our local election officials to say that yesterday’s election was anything but an incredible success that was a result of years of preparation and meticulously, carefully following the law.”

Trump has now been indicted for attempting to overturn the results of the 2020 election by both [federal prosecutors](https://apnews.com/article/explain-charges-trump-indictment-jan-6-investigation-7efd7577e41f0cbf9c697fa4613f93a3) and a [local district attorney](https://apnews.com/article/trump-georgia-election-investigation-grand-jury-willis-d39562cedfc60d64948708de1b011ed3) in Georgia. In Wisconsin, [recounts](https://www.jsonline.com/story/news/politics/elections/2020/11/27/milwaukee-county-recount-wraps-up-biden-adding-his-margin/6428186002/), a [nonpartisan audit](https://legis.wisconsin.gov/LAB/eSummary21-19) and a conservative law firm [report](https://will-law.org/wp-content/uploads/2021/12/2021ElectionReviewSummary-web.pdf) have all confirmed that Joe Biden won the state and concluded there was [no widespread fraud](https://apnews.com/article/2022-midterm-elections-wisconsin-lawsuits-presidential-16d90c311d35d28b9b5a4024e6fb880c).

Yet false claims of election-related malfeasance have persisted — alongside accusations that Wolfe mishandled the 2020 election, which took place during an unprecedented public health emergency that sent officials scrambling to ensure voter safety.

In the years since Trump lost Wisconsin and the White House, election skeptics disillusioned by the outcome of 2020 have scapegoated Wolfe, current and former elections officials told Wisconsin Watch.

All that has complicated what might have been a routine renomination process, Wolfe’s first after the state Senate unanimously confirmed her in 2019. In 2021, a bipartisan group of elections officials and experts [praised Wolfe](https://electioninnovation.org/press/bipartisan-support-for-wec-administrator-meagan-wolfe/) as “one of the most highly skilled election administrators in the country.”

Senate Majority Leader Devin LeMahieu, R-Oostburg, who did not respond to an interview request for this story, said in June he doubted Wolfe would get the 17 necessary votes to be reconfirmed because of “her mismanagement of the 2020 election.”

“I don’t think you can find any support for the idea that she’s mismanaged the administration of elections in the state,” said Kevin Kennedy, who for nearly 33 years served as Wisconsin’s elections chief. “It’s clearly politicking.”

Here’s what to know as lawmakers consider Wolfe’s future in her role — a question that will likely be decided in court.

**Senate hearing brings out election deniers**

Wolfe’s four-year term expired July 1. Previously that would have set up the process for reappointment, first by a vote of at least four of the six commissioners, then by the Senate.

But the commission’s three Democrats relied on a [recent Wisconsin Supreme Court decision](https://pbswisconsin.org/news-item/wisconsin-supreme-court-rules-prehn-can-stay-on-dnr-board/), which their party has criticized, declaring a term’s expiration does not create a vacancy — allowing Wolfe to continue to serve as a “holdover” appointee.

Chair Don Millis, a Republican, worried at the time the move would give “conspiracy theorists” and “grifters more ammunition if we have a holdover administrator.”

To ensure the state Senate would not vote on Wolfe’s future, commission Democrats [abstained on a vote on her reappointment in June](https://captimes.com/news/government/procedural-maneuver-keeps-wisconsin-elections-chief-in-job/article_62bc0618-924d-5a77-b0a4-38446600121b.html). Minutes from that meeting show her renomination failed.

“I didn’t want our position to even have the risk of being interpreted as not supporting the work she did,” Democratic commissioner Ann Jacobs said in an interview. “The position we hold is, she remains the right person for the job.”

Senate Republicans forged ahead with a [resolution](https://docs.legis.wisconsin.gov/2023/related/proposals/sr3) to consider Wolfe’s nomination as if the commission renominated her. LeMahieu said the commission’s 3-0 vote advanced the appointment. Privately, LeMahieu [expressed doubts](https://madison.com/news/state-regional/government-politics/devin-lemahieu-meagan-wolfe/article_d3f871a4-1685-11ee-bacf-a3e1837f7da8.html) that the Senate could remove her, as reported by the Wisconsin State Journal.

On Tuesday, the Senate Committee on Shared Revenue, Elections and Consumer Protection held a [public hearing](https://wiseye.org/2023/08/29/senate-committee-on-shared-revenue-elections-and-consumer-protection-3/) on Wolfe’s reappointment. Chair Sen. Dan Knodl, R-Germantown, said he wouldn’t “abdicate” his or the Senate’s authority, despite Democratic Attorney General Josh Kaul and the Legislature’s own [nonpartisan attorneys](https://www.wispolitics.com/wp-content/uploads/2023/08/230828LegCouncil.pdf) concluding Wolfe needed at least four commission votes to be considered.

Numerous Wolfe critics spoke during more than three hours of testimony, which included debunked conspiracy theories as well as newer unsubstantiated claims. Many have inundated the commission with records requests, complaints and lawsuits since November 2020. One speaker has even received a letter from the State Capitol Police [warning](https://www.jsonline.com/story/news/politics/2023/08/07/2020-election-denier-warned-against-possible-stalking-of-meagan-wolfe/70542415007/) that his actions toward Wolfe and her staff could constitute stalking.

One common misdirection from critics was to blame Wolfe for policies decided by the bipartisan commissioners in response to COVID-19, such as mailing absentee ballots to some nursing home residents. Some commission guidance they criticized even predated her tenure, such as clerks completing missing witness addresses on absentee ballot envelopes.

Controversy over these decisions largely came after Trump lost, not in the immediate aftermath of the commissioners’ actions.

Others praised Wolfe’s leadership. Rock County Clerk Lisa Tollefson told the committee Wolfe “provides strength, guidance and support through our elections across the state.”

“Considering what happened after the 2020 elections and since, we are in a world of crazy for next year,” she said. “We need strong leadership, and Meagan has proven that.”

**Administrator takes direction from bipartisan commission**

The Wisconsin Elections Commission, established by GOP lawmakers in 2016, oversees the state’s elections, which municipal and county clerks run. Its primary duties include supporting those more than 1,800 clerks, maintaining the voter registration database and ensuring compliance with federal and state election laws.

It’s governed by a six-person bipartisan commission and run by a nonpartisan administrator and staff. Legislative leaders from both parties pick four members and the governor appoints two who must have prior experience as local clerks and receive Senate confirmation. As administrator, Wolfe does not get a vote on issues, even if there’s a tie.

At the hearing, multiple people pointed to [statutory language](https://docs.legis.wisconsin.gov/statutes/statutes/15/iii/61/1/b/1) that states the “elections commission shall be under the direction and supervision of an administrator.” In an email, Kennedy said “this does not mean the administrator can act independently of the Commissioners,” pointing to a statute that says the “administrator shall perform such duties as the commission assigns.”

“There’s no question that she’s certainly been blamed for a lot of stuff that she should not be blamed for and the blame should go towards the commissioners,” said Robert Spindell, a Republican elections commissioner who posed as a fake 2020 Trump elector.

Kathleen Bernier, a former Republican state senator who now serves as the Wisconsin director for a civic education organization, said she has “been trying to explain to lawmakers” that Wolfe’s role lacks the authority of other state agency heads such as a cabinet secretary.

Wolfe communicates with clerks, oversees the agency staff’s daily operations and brings their recommendations to the commission. She may also bring matters to their attention for possible new policy, but it’s the commissioners who determine policy by a majority vote, which Wolfe must then implement.

“Anything that involves the policies, she has to have clear direction from the commission,” Kennedy said.

Any policy decisions the commission makes flow from their interpretation of election law. In this case, Bernier places some blame on the Legislature.

“We can point fingers at Meagan Wolfe or the elections commission for not following all the processes and procedures by law during COVID,” she said. “But by the same token, that same anger can point right back at the Legislature who refused to go in and pass any legislation to assist those carrying out elections under certain circumstances.”

**COVID influenced decisions on nursing home ballots**

On March 12, 2020, the day Gov. Tony Evers [declared a public health emergency](https://docs.legis.wisconsin.gov/code/executive_orders/2019_tony_evers/2020-72.pdf), the commission [convened](https://wiseye.org/2020/03/12/wisconsin-elections-commission-special-teleconference-meeting-on-covid-19/) to discuss how to keep Wisconsinites safe while voting in the April 2020 election — one the commissioners could not delay and featured voting in Wisconsin’s presidential primaries and a state Supreme Court race.

“I have to remind people that in April 2020 we really didn’t know how COVID was spread,” Jacobs said. “Remember, we were washing our Amazon packages because we didn’t know if we touched them if we were going to get sick.”

For people living in residential care facilities to vote absentee, state law requires local elections officials to send two people known as “special voting deputies” to help residents of the facility vote. If the deputies visit twice and a resident who requested to vote absentee still had not voted, the resident could then receive a ballot in the mail.

But in March 2020, the governor and state health department had limited care facility access to “only essential personnel.” Following a high-profile outbreak in a Washington state nursing home, Wolfe presented a recommendation from her staff to bypass the special voting deputies requirement. “They will not be allowed in,” she said.

The commissioners agreed 6-0, and Wolfe [issued the guidance](https://elections.wi.gov/sites/default/files/legacy/2020-03/UPDATED%2520-%2520Clerk%2520comm%2520re%2520FAQ%2520and%2520SVD%2520and%2520Polling%2520Place%2520Procs_3_13_20.pdf) the next day. It renewed its directive before the general election, with all subsequent votes on the guidance being 5-1.The nonpartisan Legislative Audit Bureau later [found](https://legis.wisconsin.gov/LAB/eSummary21-19) the commission’s decision violated the law.

“One of the [big bugaboos](https://www.wispolitics.com/2023/rep-bodden-statement-on-meagan-wolfes-reappointment/) is claiming that Meagan Wolfe, by herself, caused special voting deputies to not be sent to nursing homes. Well, that’s just completely false,” Jacobs said in an interview. “We had some very long and complicated meetings discussing that issue, the commissioners did, and the commissioners issued that decision.”

She continued: “The solution of the commission was to say we’re going to skip knocking on doors, we’re going to go straight to mailing so that these folks have a chance to vote, and it was successful. People got a chance to vote.”

Bernier, who sponsored the [bill](https://docs.legis.wisconsin.gov/2013/proposals/reg/asm/bill/ab396) on special voting deputies, criticized Wolfe and the commission for failing to seek her input on the decision. “She could have picked up the phone and said, ‘The commission is struggling with the special voting deputies. Do you have any suggestions?’ ”

At this week’s hearing, critics said they should have followed the letter of the law regardless.

But Trump’s supporters challenged the commissioners’ move through [lawsuits](https://www.cbs58.com/news/kleefisch-files-lawsuit-against-wisconsin-elections-commission) and [calls for criminal charges](https://apnews.com/article/coronavirus-pandemic-elections-wisconsin-health-local-elections-59795e4ec44828a20639ca22ca73331b) only after he lost re-election. When Racine County’s Republican sheriff recommended the five commissioners who voted for the guidance be criminally charged, the [Associated Press characterized](https://apnews.com/article/coronavirus-pandemic-elections-wisconsin-health-local-elections-59795e4ec44828a20639ca22ca73331b) it as the “latest example of Trump supporters seeking to undermine confidence in the 2020 presidential election.”

**WEC didn’t seek guidance from lawmakers on drop boxes**

WEC’s promotion of absentee ballot drop boxes also received delayed criticism.

Wolfe issued memos in [March](https://will-law.org/wp-content/uploads/2021/06/Exhibit-A-WEC-March-2020-Memo-Absentee-ballot-return-options.pdf) and [August](https://web.archive.org/web/0/https%3A//elections.wi.gov/sites/elections.wi.gov/files/2020-08/Drop%20Box%20Final.pdf) 2020 discussing absentee ballot drop boxes, with one reading: “In a COVID-19 environment, creative solutions may be required.”

It does not appear the commissioners specifically deliberated on drop boxes, but they did approve “[uniform instructions on absentee voting](https://wiseye.org/player/?clientID=2789595964&eventID=2020071124&startStreamAt=3031)” on July 30, 2020, that mentioned the method.

That September, a [lawyer wrote](https://www.thewheelerreport.com/wheeler_docs/files/092520troutman.pdf) on behalf of Assembly Speaker Robin Vos, R-Rochester, and then-Senate Majority Leader Scott Fitzgerald, R-Juneau, that the pair “wholeheartedly support(ed) voters’ use of any of these convenient, secure, and expressly authorized absentee-ballot-return-methods,” such as drop boxes.

At the time, state law did not plainly address absentee ballot drop boxes. The WEC put an FAQ on its website that [read](https://web.archive.org/web/20201218122750/https%3A//elections.wi.gov/node/7284): “Wisconsin law does not prohibit absentee ballot drop boxes, and some clerks have used them prior to 2020.”

In June 2021, the conservative Wisconsin Institute for Law and Liberty [sued](https://will-law.org/wp-content/uploads/2021/06/Tiegan-v-WEC-Complaint-FINAL60.pdf) over the practice. The following year, the conservative-controlled state Supreme Court [ruled](https://www.wicourts.gov/sc/opinion/DisplayDocument.pdf?content=pdf&seqNo=542617) “ballot drop boxes are illegal under Wisconsin statutes,” rebuffing the argument that this was nothing new by saying “longstanding noncompliance with the law does not cure its illegality.” A liberal law firm [recently](https://www.democracydocket.com/wp-content/uploads/2023/07/2023-07-20-complaint.pdf) [challenged](https://www.democracydocket.com/cases/wisconsin-absentee-voting-procedures-challenge/) that ruling.

At Tuesday’s hearing, Knodl seized on that ruling after Jacobs stated the commissioners must follow the letter of the law.

Jacobs responded: “When the courts tell us we got it right. We continue to do that work. When the courts tell us we got it wrong, we change what we do. And that’s, I think, pretty ordinary for an administrative agency, especially one under the scrutiny in which the Elections Commission has been since its creation in 2016.”

In an interview, Bernier criticized the WEC for failing to inform lawmakers about the practice, so they could consider codifying it into law.

“We don’t know those things through osmosis,” she said. “We should’ve known about that long before 2020 that they were even being used. Shame on (the) Wisconsin Elections Commission.”

Barry Burden, a UW-Madison political science professor and expert on election administration, disagreed.

“It’s not part of their mission to collect that information from across the state,” he said. “I would think legislators would be pretty aware of what’s happening in their districts.”

**Absentee ballot curing direction predates Wolfe**

Lawmakers and election deniers have also incorrectly blamed Wolfe for WEC’s guidance on filling in incomplete absentee ballot envelopes, known as “ballot curing.”

Absentee ballots are submitted to clerks in a “certificate” envelope, which under state law [must](https://docs.legis.wisconsin.gov/statutes/statutes/6/iv/87/6d) have the address of a witness. The law [requires](https://docs.legis.wisconsin.gov/statutes/statutes/6/iv/87/9) clerks to return the ballot to the voter so they may add the missing information and return it by 8 p.m. on Election Day.

But in October 2016 — before Wolfe became administrator — the six-member commission approved guidance informing clerks they could fix missing witness addresses “based on reliable information,” [according to](https://elections.wi.gov/news/correcting-misinformation-about-wisconsins-election) the WEC.

“The motion to approve the guidance was made by Republican members of the Commission in 2016 and it passed unanimously,” the WEC website states. “The guidance has been in effect for 11 statewide elections, including the 2016 presidential and presidential recount, and no one has objected to it until now.”

The Legislative Audit Bureau [reviewed](https://legis.wisconsin.gov/LAB/eSummary21-19) nearly 15,000 absentee ballot certificates cast in 29 municipalities and found that only about 7% had partial witness addresses and 0.1% lacked any witness address.

In summer 2022, the GOP-controlled Legislature successfully sued to stop clerks from curing absentee ballot envelopes. A Waukesha County Circuit Court judge ruled that clerks cannot add the missing information and the WEC cannot instruct them to do so.

That decision is also being [challenged](https://www.democracydocket.com/cases/wisconsin-absentee-voting-procedures-challenge/) by a liberal group.

**What happens next**

Tuesday’s hearing wrapped up without a vote, with Knodl later [telling](https://www.jsonline.com/story/news/politics/2023/08/29/senate-hearing-on-elections-chief-wolfe-becomes-a-rerun-of-2020-claims/70672716007/) the Milwaukee Journal Sentinel he’s undecided on whether or when to hold one.

Some expect the courts to decide Wolfe’s legal status.

Burden, the elections expert, said “it’s so important to have stable, competent leadership and elections” and it’s “really crucial” to sort this out before the next election cycle.

“The clock is ticking,” he added.

That’s especially true in Wisconsin, a battleground state with one of the country’s most decentralized elections systems.

“Getting another qualified administrator onboarded and up to speed in a few short months, that could put us in uncertain and ill-prepared territory,” said Janesville Clerk-Treasurer Lori Stottler, one of two clerks who spoke in support of Wolfe. “That makes me nervous as a clerk.”

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