



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.  
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August 7, 2024

***VIA ELECTRONIC MAIL:***

Ms. Char Nagel  
Clerk, City of Neenah  
211 Walnut St.  
P.O. Box 426  
Neenah, WI 54956  
*cnagel@neenahwi.gov*  
*clerk@neenahwi.gov*

**Re: Unlawful Electioneering in Voting Booths**

Dear Clerk Nagel:

Multiple voters in the City of Neenah are reporting that election workers have placed a Yahoo.com news article within each voting booth at the Neenah City Hall early voting site. The news article describes two referendum questions on the August 13 ballot, and characterizes the question as partisan, pitting Republicans and “conservative groups” against the Governor, Democrats, “and liberal groups.”

We received the first reports of this practice last night. Some election workers even admonished voters to “read it carefully.”

On Wednesday morning, August 7, a voter confronted you about your practices, accusing you of unlawful electioneering. In response, you said that “we have to explain” the referendum questions because “voters don’t understand” what they mean.

It is not your job to “explain” referendum questions to voters. And it is certainly not your job to suggest to voters that this is a partisan issue that pits “Democrats” and “liberals” against “Republicans” and “conservatives.” It is your job to administer elections according to the law.

Not only is it not your job to signal voters which “side” supports these questions, you are prohibited from doing so. Wisconsin state law expressly prohibits electioneering under Wis. Stat. § 12.03. “Electioneering” means any activity which is intended to influence voting at an election. Wisconsin state law also prohibits posting and distribution of election-related materials “at the polling place, at locations where absentee ballots may be cast, or near the entrance of such

locations.” Wis. Stat. § 12.035. Placing a news article characterizing referendum questions as partisan within each voting booth and elsewhere at the polling location clearly violates both state laws.

This is a very serious matter. Any person found in violation of Wis. Stat. § 12.03 “may be fined not more than \$1,000, or imprisoned not more than 6 months or both.” Wis. Stat. § 12.60(1)(b). And any voter may file a complaint against you with the Wisconsin Elections Commission. *See* Wis. Stat. § 5.05 & 5.06.

We demand that you cease and desist this unlawful activity immediately.<sup>1</sup> If you do not confirm that you have stopped this unlawful practice by noon, August 8, we will refer your conduct to the appropriate authorities.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.



Richard M. Esenberg  
*President and General Counsel*



Daniel P. Lenington  
*Deputy Counsel*

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<sup>1</sup> Additionally, a voter has reported that you have placed a two-page “Notice of Referendum Election” in each voting booth. While this notice may be authorized under Wis. Stat. § 10.01, nothing in Wisconsin state law authorizes you to place this notice in each voting booth. Notices are for publication and posting at the sites authorized by law, not for placement in voting booths. You must cease this activity also.

### **What do the August referendum questions mean in Wisconsin?**

There are two referendum questions on the Aug. 13 ballot that all voters will see. The questions are written as follows:

QUESTION 1: "Delegation of appropriation power. Shall section 35 (1) of article IV of the constitution be created to provide that the legislature may not delegate its sole power to determine how moneys shall be appropriated?"

QUESTION 2: "Allocation of federal moneys. Shall section 35 (2) of article IV of the constitution be created to prohibit the governor from allocating any federal moneys the governor accepts on behalf of the state without the approval of the legislature by joint resolution or as provided by legislative rule?"

The questions stem from debates between Democratic Gov. Tony Evers and the Republican-led state Legislature over distributing federal pandemic relief funds. If the referendums pass, they would require the governor to get legislative approval to spend federal money.

Republicans and conservative groups support voting "yes" on the two questions because they see the amendments as an important check on the governor's power. Democrats and liberal groups support voting "no" because they believe the Legislature would slow down how the state government responds to emergencies.

[https://www.yahoo.com/news/wisconsin-primary-election-guide-aug-100537534.html?fr=yhssrp\\_catchall](https://www.yahoo.com/news/wisconsin-primary-election-guide-aug-100537534.html?fr=yhssrp_catchall)