

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

COMMON CAUSE, COMMON CAUSE
WISCONSIN, BENJAMIN R.
QUINTERO,

Plaintiffs,

v.

Case No. 19-CV-323

ANN S. JACOBS, MARK L. THOMSEN,
MARGE BOSTELMANN, JULIE M.
GLANCEY, ROBERT F. SPINDELL, JR.,
and DEAN KNUDSON, in their official
capacities as Commissioners of the
Wisconsin Elections Commission,
MEAGAN WOLFE, in her official
capacity as the Administrator of the
Wisconsin Elections Commission ,

Defendants.

**DEFENDANTS' ANSWER AND DEFENSES
TO FIRST AMENDED COMPLAINT**

Defendants, in their official capacities as Commissioners of the Wisconsin Elections Commission (“the Commission”) and Administrator of the Commission, by their attorneys, answer Plaintiffs’ First Amended Complaint for Declaratory and Injunctive Relief (“Complaint”) (Dkt. 37) as follows:

Defendants DENY that the Plaintiffs are entitled to the declaratory or injunctive relief they seek in the first unnumbered paragraph of the Complaint.

NATURE OF ACTION

1. Defendants DENY the allegations contained in this paragraph.

2. Defendants DENY the allegations contained in this paragraph.

3. Defendants ADMIT that the state has an important interest in ensuring that voters in Wisconsin live in Wisconsin, and that it may enact redundant requirements to further that interest; DENY the remaining allegations contained in this paragraph; and ALLEGE that Wis. Stat. § 5.02(6m)(f) sets forth the requirements for a university or college ID to be considered a valid voter ID.

4. Defendants ADMIT that Ann S. Jacobs, Mark L. Thomsen, Julie M. Glancey, Marge Bostelmann, Dean Knudson, and Robert F. Spindell, Jr. are Commissioners of the Wisconsin Elections Commission (WEC), and that Meagan Wolfe is the Administrator of WEC; and DENY the remaining allegations contained in this paragraph.

5. Defendants lack knowledge sufficient to form a belief as to the truth of the allegation that “a number of forms of valid, accepted voter ID, such as Veterans Health Identification Cards (“VHICs”) issued by the U.S. Department of Veterans Affairs and some tribal ID cards, do not even contain

signatures”; ADMIT that the voter ID law was enacted in 2011 and that the voter ID law does not require election officials and poll workers to verify that any signature on the ID matches the voter’s signature on the poll book or the voter’s signature on the voter registration form; and DENY the remaining allegations contained in this paragraph and Footnote 1.

6. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations in this paragraph and Footnote 2.

7. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations in the first, second and third sentences in this paragraph, and Footnotes 3 and 4; and DENY the remaining allegations in this paragraph.

8. Defendants ADMIT that Plaintiffs bring this action under 42 U.S.C. § 1983 and 52 U.S.C. § 10101(a)(2)(B); and DENY the remaining allegations contained in this paragraph.

JURISDICTION & VENUE

9. Defendants DENY the allegations contained in this paragraph.

10. Defendants DENY the allegations contained in this paragraph.

11. Defendants DENY the allegations contained in this paragraph.

12. Defendants ADMIT that the WEC Defendants are sued in their official capacities, that they are state officials who reside in Wisconsin; and

that WEC is based in Madison, Wisconsin; DENY the remaining allegations contained in this paragraph.

13. Defendants ADMIT the allegation in this paragraph.

PARTIES

14. Defendants DENY the allegations about the voter ID laws' legality; and lack knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

15. Defendants DENY that voter ID requirements are unconstitutional; and lack knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

16. Defendants DENY that voter ID requirements are unconstitutional; and lack knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

17. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations in this paragraph.

18. Defendants ADMIT the allegations in this paragraph.

19. Defendants ADMIT the allegations in this paragraph.

FACTUAL ALLEGATIONS

A. Wisconsin's Voter ID Requirement and Its Requirements for College and University Student Photo ID Cards

20. Defendants DENY the characterization that Wisconsin's voter ID law is "strict"; and ADMIT the remaining allegations contained in this paragraph.

21. Defendants DENY that "[s]tudents using their college or university photo ID card to vote must also present separate proof of current enrollment," and that "[t]he university or college ID must be accompanied by a separate document that proves enrollment;" FURTHER DENY that "[t]he Election Day Manual is consistent with this" and that the information in Footnotes 5, 6, 7, 8, and 9 reflects the current requirements for students using a college or university photo ID card to vote; ALLEGE that WEC issued an update to the Election Day Manual on August 3, 2020; and ADMIT the remaining allegations contained in this paragraph.

22. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations in the second and third sentences of this paragraph; ADMIT the first and fourth sentences of this paragraph; DENY the remaining allegations contained in this paragraph; and ALLEGE that Wis. Stat. 5.02(6m), as interpreted in *Luft v. Evers*, 963 F.3d 665 (7th Cir. 2020), sets forth the criteria for acceptable forms of voting ID.

23. Defendants lack knowledge sufficient to form a belief as to the truth of the allegations in this paragraph.

B. Prior Litigation Regarding the Use of College and University IDs as Voter ID in Wisconsin.

24. Defendants ADMIT that in 2016, this Court issued a decision in *One Wisconsin Institute v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016); ALLEGE that the decision in the case speaks for itself; and DENY the remaining allegations contained in this paragraph.

25. Defendants DENY the allegations contained in this paragraph; and ALLEGE that the decision in *One Wisconsin Institute v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016), speaks for itself.

26. Defendants DENY the allegations contained in this paragraph; and ALLEGE that the decision in *Luft v. Evers*, 963 F.3d 665 (7th Cir. 2020), speaks for itself.

C. In-Person and Mail-in Voting Procedures

1. **Because *expired* college and university IDs can be used in conjunction with proof of current enrollment, it is unnecessary and irrational to enforce the requirements that these IDs bear issuance and expiration dates.**

Defendants ADMIT that expired college and university IDs can be used in conjunction with proof of current enrollment; and DENY the remaining allegations contained in Paragraph C(1).

27. Defendants ADMIT the first, second and fifth sentences contained in this paragraph, along with Footnotes 10, 11 and 12; lack knowledge sufficient to form a belief as to the truth of the allegations in the fourth sentence of this paragraph; and DENY the remaining allegations contained in this paragraph.

28. Defendants ADMIT the first sentence contained in this paragraph; DENY the remaining allegations contained in this paragraph; ALLEGE that election officials shall also verify that the name and address stated by the elector conform to the elector's name and address on the poll list; and FURTHER ALLEGE that WEC issued an update to the Election Day Manual on August 3, 2020.

29. Defendants ADMIT the second, third and fourth sentences contained in this paragraph; DENY the remaining allegations contained in this paragraph; and ALLEGE that temporary overseas electors are required to submit proof of identification with an absentee ballot application, but that individuals that are indefinitely confined do not.

30. Defendants ADMIT that "redundant requirements are permissible" and that expired college and university ID cards must be accepted when presented with the requisite separate proof of current enrollment; and DENY the remaining allegations contained in this paragraph.

31. Defendants DENY that the requirements are irrational; and lack knowledge sufficient to form a belief as to the truth of the remaining allegations contained in this paragraph.

2. The two-year expiration requirement is also irrational.

Defendants DENY the allegations contained in Paragraph C(2).

32. Defendants ADMIT the first sentence, that “[t]here are two-year institutions and four-year institutions in Wisconsin,” and that expired college and university ID cards must be accepted when presented with the requisite separate proof of current enrollment; and DENY the remaining allegations contained in this paragraph.

3. By law, signatures on voter IDs, if any are even present, are not used for any signature comparison, and therefore, requiring a signature on a college and university ID card used as voter ID is irrational.

Defendants DENY the allegations contained in Paragraph C(3).

33. Defendants ADMIT the first, third and fourth sentences contained in this paragraph; DENY the remaining allegations contained in this paragraph; and ALLEGE that WEC issued an update to the Election Day Manual on August 3, 2020.

34. Defendants ADMIT the allegations contained in this paragraph, along with Footnotes 18 and 19.

35. Defendants DENY the last two sentences contained in this paragraph; ADMIT the remaining allegations contained in this paragraph; but ALLEGE that the excerpt “Alternatively, a receipt or label can be generated with a line for the voter to sign in order to capture a ‘wet’ signature” from the 2014 GAB report does not apply to the current e-pollbook system that has been implemented.

CLAIMS FOR RELIEF

COUNT ONE

(College or University ID Issuance Date and Expiration Date Requirements Violate First and Fourteenth Amendments to the U.S. Constitution, 42 U.S.C. § 1983) (All Plaintiffs)

Defendants DENY the allegations contained in this unnumbered heading.

36. Defendants reallege and incorporate, as though fully set forth herein, each and every response above.

37. Defendants DENY the allegations contained in this paragraph; and ALLEGE that the legal authority cited in the paragraph speaks for itself.

38. Defendants ADMIT the first sentence contained in this paragraph; and DENY the remaining allegations contained in this paragraph.

39. Defendants DENY the allegations contained in this paragraph.

40. Defendants DENY the allegations contained in this paragraph.

41. Defendants DENY the allegations contained in this paragraph.

42. Defendants ADMIT the allegations contained in this paragraph.

43. Defendants ADMIT that they are acting under color of state law; and DENY the remaining allegation contained in this paragraph.

COUNT TWO

(College or University ID Two-Year Expiration Requirement Violates First and Fourteenth Amendments to the U.S. Constitution, 42 U.S.C. § 1983) (All Plaintiffs)

Defendants DENY the allegations contained in this unnumbered heading.

44. Defendants reallege and incorporate, as though fully set forth herein, each and every response above.

45. Defendants DENY the allegations contained in this paragraph; and ALLEGE that the legal authority cited in the paragraph speaks for itself.

46. Defendants ADMIT the allegations contained in this paragraph.

47. Defendants ADMIT that there are two-year institutions and four-year institutions in Wisconsin; and DENY the remaining allegations contained in this paragraph.

48. Defendants ADMIT that expired college and university ID cards must be accepted when presented with the requisite separate proof of current enrollment; and DENY the remaining allegations contained in this paragraph.

49. Defendants ADMIT the allegations contained in this paragraph.

50. Defendants ADMIT that they are acting under color of state law; and DENY the remaining allegation contained in this paragraph.

COUNT THREE

**(College or University ID Signature Requirement Violates
First and Fourteenth Amendments to the U.S. Constitution,
42 U.S.C. § 1983) (All Plaintiffs)**

Defendants DENY the allegations contained in this unnumbered heading.

51. Defendants reallege and incorporate, as though fully set forth herein, each and every response above.

52. Defendants DENY the allegations contained in this paragraph; and ALLEGE that the legal authority cited in the paragraph speaks for itself.

53. Defendants ADMIT the allegations contained in this paragraph.

54. Defendants DENY the allegations contained in this paragraph.

55. Defendants DENY the allegations contained in this paragraph.

56. Defendants DENY the allegations contained in this paragraph.

57. Defendants ADMIT the allegations contained in this paragraph.

58. Defendants ADMIT that they are acting under color of state law; and DENY the remaining allegation contained in this paragraph.

COUNT FOUR

(College or University ID Issuance Date, Expiration Date, Two-Year Expiration, and Signature Requirements Violate 52 U.S.C. § 10101(a)(2)(B) and 42 U.S.C. § 1983) (All Plaintiffs)

Defendants DENY the allegations contained in this unnumbered heading.

59. Defendants reallege and incorporate, as though fully set forth herein, each and every response above.

60. Defendants DENY the allegations contained in this paragraph; and ALLEGE that the legal authority cited in the paragraph speaks for itself.

61. Defendants DENY the allegations contained in this paragraph.

62. Defendants DENY the allegations contained in this paragraph.

63. Defendants DENY the allegations contained in this paragraph.

64. Defendants ADMIT the allegations contained in this paragraph.

65. Defendants ADMIT that they are acting under color of state law; and DENY the remaining allegation contained in this paragraph.

PRAYER FOR RELIEF

Defendants DENY the allegations in Paragraphs (a)–(d) and FURTHER DENY that Plaintiffs are entitled to any of the relief sought in these paragraphs.

DEFENSES

1. All or portions of the Complaint fails to state a claim for which relief can be granted.
2. The action should be dismissed because Plaintiffs lacks standing.
3. Plaintiffs have failed to join necessary parties, without whom the Court cannot accord complete relief.
4. To the extent Plaintiffs were to seek damages, the Defendants are entitled to sovereign immunity.
5. Defendants reserve the right to name additional defenses as they may become known through further discovery or otherwise in this action.

WHEREFORE, Defendants demand judgment in their favor and against Plaintiffs, dismissing Plaintiffs' Complaint, and an order awarding Defendants attorney fees, as well as such other and further relief as the Court deems appropriate under the circumstances.

Dated this 2nd day of September, 2020.

Respectfully submitted,

ERIC WILSON
Deputy Attorney General of Wisconsin

Electronically signed by:

s/ S. Michael Murphy
S. MICHAEL MURPHY
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