

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

Bondy v. Wilson  No. COPP 2021-CFP-002	FINDING OF SUFFICIENT FACTS TO SUPPORT A CAMPAIGN PRACTICE ACT VIOLATION
--	--

On April 5, 2021, Lloyd Bondy of Lakeside, Montana, filed a campaign practices complaint against Kim Wilson. The complaint alleges that the respondent failed to properly register as a candidate with the COPP despite participating as a candidate for election in both a past school trustee election as well as the current 2021 school trustee election.

**SUBSTANTIVE ISSUES ADDRESSED**

The proper and timely filing as a candidate with the Commissioner of Political Practices office.

**FINDINGS OF FACT**

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: Kim Wilson is a current member of the Kalispell School District #5 Board of Education.<sup>1</sup> Wilson did not file a C-1A Statement of Candidate as a candidate for a school trustee position in a 2021 election with the COPP prior to the filing of this complaint. (Commissioner's Records.)

Finding of Fact No. 2: On May 5, 2020, Kalispell School District #5 held a school trustee election. (Commissioner's Records.)

---

<sup>1</sup> <https://www.sd5.k12.mt.us/Board/Members/11>

Finding of Fact No. 3: On April 7, 2021, Kalispell School District #5's Director of Business Services Gwyn Anderson emailed the COPP a copy of a Declaration and Oath of Candidacy for Trustee Candidates signed by Kim Wilson and dated March 7, 2020, signaling her participation as a candidate in the Kalispell School District's May 5, 2020, school trustee election. A copy of a hard copy (paper) C-1A signed by candidate Wilson was also included. While the C-1A was signed and dated March 8, 2020, it was not provided to the COPP by candidate Wilson at that time. The email also included a copy of a Certificate of Trustee Appointment issued on August 11, 2020 stating that Kim Wilson "was appointed to fill the office of Trustee (term ending in 2022) for Kalispell Elementary School District No. 5, Flathead County, Montana until the next regular school election of said district".

At no time did candidate Wilson file a C-1A Statement of Candidate as a candidate for election to a school trustee position in Kalispell School District #5's May 5, 2020, election with the COPP. (Commissioner's Records.)

Finding of Fact No. 4: Kalispell School District #5 did not provide the COPP with a list of candidates who had registered to participate in the May 5, 2020, election at any time prior to the completion of that election, nor a list of winning candidates after the completion of that election. (Commissioner's Records.)

Finding of Fact No. 5: Kalispell School District #5 will hold a school trustee election on May 5, 2021. On April 2, 2021, Kalispell School District #5's Director of Business Services Gwyn Anderson notified COPP that Kim Wilson had registered with the school district as a candidate for election to the Board in the 2021 election. On April 12, 2021 Gwyn Anderson emailed the COPP a copy of a Declaration and Oath of Candidacy for Trustee Candidates signed by Kim Wilson and dated March 9, 2021, signaling her participation in the Kalispell School District's May 4, 2021, school trustee election (Commissioner's Records.)

Finding of Fact No. 6: On April 6, 2021, Kim Wilson filed a C-1A Statement of Candidate as a candidate for election to a school trustee position in Kalispell School District #5's May 4, 2021 election with the COPP. (Commissioner's Records.)

Finding of Fact No. 7: On April 7, 2021, Kalispell School District #5 Director of Business Services Gwyn Andersen contacted the COPP via email. The email reads:

*I am in need of some clarification on the campaign practices as they relate to school district trustees.*

*As I stated in an earlier email, in the past I have printed the C1a form and ask the candidates to complete it and return it to me so that I knew they had done the paperwork. I then sent them on to the commissioner of political practices office in one mailing.*

*In the cases of the election being cancelled, because there was only one candidate for each open seat I did not send the paperwork on to the COPP office, because the election was cancelled. No election, no campaign, no campaign finance reports. That may have been my error.*

*Now of course it is an electronic only process. Going forward should I be advising them to complete that information even though the election has been cancelled?*

*Thank you for your guidance.*

(Commissioner's Records.)

## **DISCUSSION**

### *2021 Trustee election*

The first allegation raised by this complaint alleges Kim Wilson failed to register with the COPP as candidate for a 2021 school trustee election.

Mont. Code Ann. §13-37-201 requires that candidates seeking election to public office register as such with the COPP “within 5 days after becoming a candidate”. While some school trustee candidates are exempted from this requirement under Mont. Code Ann. §13-37-206(1), Kalispell School District #5 is not among the exempted districts. School trustee candidates in Kalispell School District #5 need to register as a candidate with the COPP under applicable Montana campaign finance law.

In this matter, Kalispell School District #5 confirmed that Kim Wilson registered with the school district as a candidate for election to a school trustee election<sup>2</sup> position on March 9, 2021 (FOF No. 5). By filing a “declaration” of candidacy with Kalispell School District #5 for its 2021 school trustee election, Kim Wilson became a 2021 candidate, Mont. Code Ann. §13-1-101(8) and would need to file a Statement of Candidate with the COPP no later than March 14, 2021.

Candidate Wilson had not registered as a candidate with the COPP as of April 5, 2021, the date this complaint was received (FOF No. 1). Candidate Wilson’s failure to timely file a Statement of Candidate is a violation of statutory requirements of Mont. Code Ann. §13-37-201.

Sufficiency Finding No. 1: Candidate Wilson failed to file her Statement of Candidate with the COPP within 5 days of becoming a 2021 candidate for Kalispell School District #5 Trustee as required by Montana law.

The Commissioner notes the candidate did file a C-1A Statement of Candidate with the COPP indicating her candidacy for a 2021 school trustee position on April 6, 2021 (FOF No. 6).

#### *2020 Trustee Election*

The complaint additionally alleges that candidate Wilson failed to properly register as a candidate with the COPP in a past trustee election.

Kim Wilson became a candidate in the Kalispell School District #5’s May 5, 2020, school trustee election on March 7, 2020 by filing a Declaration and

---

<sup>2</sup> Kalispell School District #5 candidate registration for the May 5, 2021, school trustee election closed on March 25, 2021.

Oath of Candidacy for Trustee Candidates with the school district (FOF No. 3). While candidate Wilson appears to have completed and signed a hard copy C-1A Statement of Candidate indicating her candidacy in that election, she did not provide this document to the COPP (FOF No. 3). Candidate Wilson failed to meet the requirements of Mont. Code Ann. §13-37-201, by failing to register as a candidate with the COPP for a 2020 election in which she had participated as a candidate.

Sufficiency Finding No. 2: Candidate Wilson failed to file her Statement of Candidate with the COPP within 5 days of becoming a 2020 candidate for Kalispell School District #5 Trustee as required by Montana law.

The Commissioner finds candidate Wilson failed to properly file a C-1A Statement of Candidate with the COPP indicating her candidacy for a 2020 school trustee position, a Montana campaign practices violation.

On August 11, 2020, candidate Wilson was issued a Certificate of Trustee Appointment by Kalispell School District #5, indicating that she had been appointed to a Trustee position (FOF No. 3).

At no time was the COPP notified that candidate Wilson had registered as a candidate for election to a school trustee position with the Kalispell School District #5 in 2020. Had the COPP been made aware of the candidacy, the agency would have contacted the individual immediately to notify of their requirement to register on forms filed with the COPP and provide any necessary assistance in completing this process, as it routinely does with all candidates. The COPP cannot contact local candidates it does not know have become candidates under Montana campaign finance law; as noted above, COPP was

never notified as to any candidate registrations for election to a school trustee position in Kalispell School District's 2020 trustee election.

Ultimate responsibility in meeting the requirements of Mont. Code Ann. §13-37-201, falls on the candidate, not the COPP or any other entity or agency which the candidate interacts with. Like any other candidate, school trustee candidates assume all responsibility for complying with applicable Montana campaign finance law regardless of what contact (if any) the candidate has with COPP staff.

### **DECISION**

The Commissioner has limited discretion when making the determination as to an unlawful campaign practice. First, the Commissioner "shall investigate" any alleged violation of campaign practices law. Mont. Code Ann. § 13-37-111(2)(a). The mandate to investigate is followed by a mandate to take action; where there is "sufficient evidence" of a violation the Commissioner must ("shall notify," *see id.*, at § 13-37-124) initiate consideration for prosecution.

Second, having been charged to make a decision, the Commissioner must follow substantive law applicable to a particular campaign practice decision. This Commissioner, having been charged to investigate and decide, hereby determines that there is sufficient evidence to show that candidate Wilson violated Montana's campaign practice laws, including, but not limited to the laws set out in the Decision. Having determined that sufficient evidence of a campaign practice violation exists, the next step is to determine whether

there are circumstances or explanations that may affect prosecution of the violation and/or the amount of the fine.

The failure to fully and timely report and disclose cannot generally be excused by oversight or ignorance. Excusable neglect cannot be applied to oversight or ignorance of the law as it relates to failures to file and report. See *Matters of Vincent*, Nos. COPP-2013-CFP-006, 009 (discussing excusable neglect principles). Likewise, the Commissioner does not normally accept that failures to file or report be excused as *de minimis*. *Id.* (discussing *de minimis* principles).

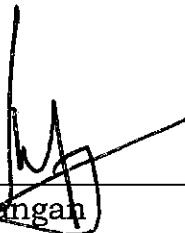
Because there is a finding of violation and a determination that *de minimis* and excusable neglect theories are not applicable to the above Sufficiency Findings, a civil fine is justified. Mont. Code Ann. § 13-37-124. The Commissioner hereby issues a “sufficient evidence” Finding and Decision justifying a civil fine or civil prosecution of candidate Wilson. Because of the nature of the violation, this matter is referred to the County Attorney of Lewis and Clark County for his consideration as to prosecution. *Id.*, at (1). Should the County Attorney waive the right to prosecute (*id.*, at (2)) or fail to prosecute within 30 days (*id.*, at (1)) this Matter returns to this Commissioner for possible prosecution.

Most of the Matters decided by a Commissioner and referred to the County Attorney are waived back to the Commissioner for his further consideration. Assuming that the Matter is waived back, this Finding and Decision does not necessarily lead to civil prosecution as the Commissioner

has discretion (“may then initiate” *see id.*) in regard to a legal action. Instead, most of the Matters decided by a Commissioner are resolved by payment of a negotiated fine. In setting that fine the Commissioner will consider matters affecting mitigation, including the cooperation in correcting the issue when the matter was raised in the Complaint.

While it is expected that a fine amount can be negotiated and paid, in the event that a fine is not negotiated and the Matter resolved, the Commissioner retains statutory authority to bring a complaint in district court against any person who intentionally or negligently violates any requirement of campaign practice law, including those of Mont. Code Ann. § 13-37-201. *See id.*, at § 13-37-128. Full due process is provided to the alleged violator because the district court will consider the matter *de novo*.

DATED this 14<sup>th</sup> day of April 2021.



---

Jeffrey A. Mangan  
Commissioner of Political Practices  
Of the State of Montana  
P.O. Box 202401  
1209 8<sup>th</sup> Avenue  
Helena, MT 59620  
Phone: (406)-444-3919



**CERTIFICATE OF TRUSTEE APPOINTMENT**

THIS IS TO CERTIFY that on the **11th** day of **August, 2020**, **KIM WILSON** was appointed to fill the office of Trustee (term ending in 2022) for **KALISPELL ELEMENTARY** School District No. **5**, Flathead County, Montana, until the next regular school election of said district, in accordance with 20-3-309, MCA.

ISSUED THIS **11th** day of **AUGUST, 2020**.

Board Chair: **LANCE ISAAK**

Board Chair Signature: \_\_\_\_\_

District Clerk: **GWYN ANDERSEN**

District Clerk Signature: \_\_\_\_\_

School District No. **5**

File the following oath of office with the county superintendent within fifteen (15) days of receipt of this **Certificate of Appointment**. Upon completion of taking and filing the oath of office, you will have the rights and obligations of a Trustee of the School Board pursuant to Montana law and in accordance with 20-3-324, MCA. You will hold this position until your successor has been qualified.

**OATH OF OFFICE**

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution of the United States, and the Constitution of the State of Montana, and that I will discharge the duties of my office with fidelity (so help me God).

Signature of Newly Appointed Trustee: \_\_\_\_\_

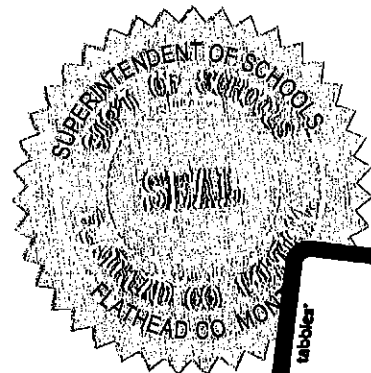
Printed Name of Newly Appointed Trustee: **KIM WILSON**

Signed and sworn to before me this **11th** day of **AUGUST, 2020**.

Signature of County Superintendent

**JACK EGGENSBERGER**

Printed Name of County Superintendent



Kalispell School Board July 7th, 2020  
Attention Gwen.

Facing numerous physical problems and scheduled surgeries, I am writing this with a heavy heart. I have thoroughly enjoyed serving as a Trustee on the School Board. It has been a great experience getting to know some wonderful and committed people. I will always cherish this time. I am tendering my resignation having come to terms with the reality that I cannot continue in giving the position of Trustee the due diligence it requires and deserves. I spoke to Lance a couple of weeks ago and sent an email to Gwen. All said and done, I am sad things turned this way on my health. I will return my badge and computer pad to the office this week. Best of all to you and all the Board members.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Heiden", with a long horizontal line extending to the right.

Ted Heiden

*Received  
7/13/2020  
Gwen*

DECLARATION OF INTENT AND OATH OF CANDIDACY FOR TRUSTEE CANDIDATES

To the School District Clerk of School District No. 5, Flathead County, State of Montana:

Filing for the office of School District Trustee: For a 3-year term at the Annual Regular School District Election to be held on the 5th day of May, 2020.

Candidate Name (Print, as it should appear on the ballot):

Kim A. Wilson

Mailing address: 28 Bruyer Way Loop

City and State: Kalispell, MT Zip Code: 59901

Residence address: 28 Bruyer Way Loop

City and State: Kalispell, MT Zip Code: 59901

Contact Phone: 949-466-7587 Email Address: wilsonka6@yahoo.com

I hereby affirm that I possess, or will possess, within the constitutional and statutory deadlines, the qualifications prescribed by the Constitution and law of the United States and the State of Montana.

DATED this 7th day of March, 2020

KA Wilson

(Signature of Candidate)

Candidate must sign and acknowledge this Declaration of Intent before a Notary Public, if mailed, or before the Election Administrator or Deputy, if delivered in person.

State of Montana, County of Flathead

Signed and sworn to before me this 9th day of March, 2020, by Kim A. Wilson Printed Name of Candidate

Rachel Walleette

Signature of Notary or Public Official

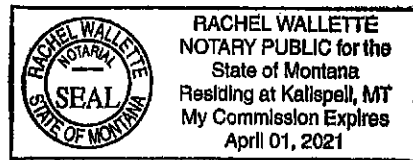
Rachel Walleette

Printed name of Notary or Public Official

Notary Public for the State of Montana (include stamp/seal)

Residing at: Kalispell

My Commission Expires: 04-01-2021, 2021



DECLARATION OF INTENT AND OATH OF CANDIDACY FOR TRUSTEE CANDIDATES

Candidate Name (Print): Kim A. Wilson

This Declaration of Intent for a trustee position must be submitted to the school district clerk no later than 40 days before the election. 20-3-305, MCA

Pursuant to 13-37-206, MCA, all candidates for trustee positions in first-class districts located in counties with populations of 15,000 or more OR in county high school districts having student enrollments of 2,000 or more must report their campaign finance activities to the Montana Commissioner of Political Practices. Current forms are available at: [Link to the MT Political Practices webpage](#)

**Please return this form to:**

District Clerk: Gwyn M. Andersen

District: Kalispell Elementary School

Address: 233 First Ave. East

City, State, Zip Kalispell, MT 59901

Fax: (406) 751-3425

Email: anderseng@sd5.k12.mt.us

THE STATE OF MONTANA

COMMISSIONER OF POLITICAL PRACTICES  
1209 Eighth Avenue  
Post Office Box 202401  
Helena, MT 59620-2401  
TELEPHONE: 406-444-2942  
FAX NUMBER: 406-444-1643  
WEBSITE: [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

FOR OFFICE USE ONLY  
Date Received and Postmark Date

Form C-1-A (Revised 01/18)

Statement of Candidate

TO BE FILED by CANDIDATE for COUNTY, MUNICIPAL or SCHOOL OFFICE

ORIGINAL FILING  AMENDED FILING

TYPE OR PRINT IN INK ALL INFORMATION WITH EXCEPTION OF SIGNATURE

FULL NAME OF CANDIDATE Kim A. Wilson

COMPLETE DESCRIPTION OF OFFICE SOUGHT Elementary School Board Trustee

PARTY AFFILIATION, if any \_\_\_\_\_ COUNTY OF RESIDENCE Flathead

COMPLETE MAILING ADDRESS 28 Bruyer Way Loop Kalispell, MT 59901  
(Including City, State, Zip Code)

COMPLETE STREET ADDRESS 28 Bruyer Way Loop, Kalispell, MT 59901  
(Including City, State, Zip Code)

wilsonkab@yahoo.com 949-446-7587 \_\_\_\_\_  
E-Mail Address (Please Print) Home Telephone Number Work Telephone Number Facsimile Number

FULL NAME OF CAMPAIGN TREASURER \_\_\_\_\_  
(Must be registered to vote in Montana)

COMPLETE MAILING ADDRESS \_\_\_\_\_  
(Including City, State, Zip Code)

COMPLETE STREET ADDRESS \_\_\_\_\_  
(Including City, State, Zip Code)

\_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
E-Mail Address (Please Print) Home Telephone Number Work Telephone Number Facsimile Number

FULL NAME OF DEPUTY TREASURER, if any \_\_\_\_\_  
(Must be registered to vote in Montana)

COMPLETE MAILING ADDRESS \_\_\_\_\_  
(Including City, State, Zip Code)

\_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_  
E-Mail Address (Please Print) Home Telephone Number Work Telephone Number Facsimile Number

CAMPAIGN ACCOUNT INFORMATION

FULL NAME OF BANK \_\_\_\_\_

COMPLETE ADDRESS \_\_\_\_\_  
(Including City, State, Zip Code)

AFFIDAVIT OF REPORTING STATUS (Check one) a treasurer and bank must be designated.

B  I certify that I expect the total amount of contributions or expenditures will not exceed \$500 (including personal funds); however, if more than \$500 is received and/or expended, within 5 days of reaching this threshold I will file an initial financial report (form C-5) and I will file additional financial reports according to schedule.

C  I expect to receive contributions and/or make expenditures exceeding \$500 (including personal funds). I will file an initial financial report (form C-5) according to schedule.

CERTIFICATION: I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true, complete and correct.

Kim A. Wilson  
Candidate's Signature

3/8/2020  
Date