

State of Wisconsin \ Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
<http://gab.wi.gov>



JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: November 17, 2014

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
Milwaukee County Election Commission
City of Milwaukee Election Commission

FROM: Michael Haas
Elections Division Administrator

SUBJECT: Deadline for Notification of Noncandidacy

As we prepare for the circulation of nomination papers by candidates for the Spring Election, the G.A.B. has received several inquiries regarding the deadline for incumbents to file a Notification of Noncandidacy (GAB-163) in time to avoid extending the deadline for other candidates to file nomination papers. Specifically, several school districts have asked whether the deadline for the Notification of Noncandidacy, which falls on December 26, 2014, may be extended if the school district administration office is closed for winter break on that day. In the opinion of G.A.B. staff, the deadline may not be extended and school district clerks or their designee must be available to receive the Notification form until 5 p.m. on December 26th.

Wis. Stat. §8.10(2)(a) provides that if an incumbent fails to file nomination papers and a declaration of candidacy by the filing deadline for the Spring Election, all other candidates for that office receive a 72-hour extension of the filing deadline. That section states:

No extension of the time for filing nomination papers applies if the incumbent files written notification with the filing officer or agency with whom nomination papers are filed for the office which the incumbent holds, no later than 5 p.m. on the 2nd Friday preceding the [filing deadline], that the incumbent is not a candidate for reelection to his or her office, and the incumbent does not file nomination papers for that office. . . .

Wis. Stat. §120.06(6)(b)3 contains similar language specifically pertaining to candidates for school board. The filing deadline for the 2015 Spring Election is Tuesday, January 6, 2015, and therefore the statutory deadline for an incumbent to file a Notification of Noncandidacy is Friday, December 26, 2014. Neither Section 8.10(2) nor Section 120.06(6) provides an exemption from or postponement for the deadline to file a Notification of Noncandidacy when the office of a filing officer is closed on a day that is not recognized as a state holiday.

Therefore, local filing officers, including school district clerks, or their designees, must be available to receive the Notification form until 5:00 p.m. on Friday, December 26, 2014.

Please note that the filing officer must receive an incumbent's Notification of Noncandidacy by December 26, 2014 in order to avoid extending the nomination paper filing deadline by 72 hours. However, pursuant to Section GAB 6.04, Wis. Adm. Code, the Notification of Noncandidacy may be filed by fax or email provided that the original document is either received by the filing officer or postmarked by the filing deadline, December 26, 2014. The G.A.B. recommends that filing officers reach out to all incumbent office holders early in an effort to avoid potential filing issues during the holiday season.

If you have any further questions regarding the above information or other issues that arise, please contact the G.A.B. Help Desk at (608) 261-2028, or gabhhelpdesk@wi.gov.