

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chairperson

KEVIN J. KENNEDY
Director and General Counsel

MEMORANDUM

DATE: December 12, 2014

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

FROM: Michael Haas
Elections Division Administrator

SUBJECT: Voter Photo ID Status for 2015 Spring Elections
Voter Photo ID Guidance 2014-5

As local election officials prepare for the 2015 Spring Primary, we have received several inquiries requesting an update as to the status of the Voter Photo ID requirement. As you may recall, on October 9, 2014, the U.S. Supreme Court ordered that the photo ID requirement would not be in effect for the November 4, 2014 General Election. The Supreme Court reinstated an injunction against the requirement which was previously issued by the federal court in the Eastern District of Wisconsin at the request of plaintiffs challenging its constitutionality.

The Supreme Court's order remains in effect until either the Court rules on the plaintiff's appeal if an appeal is filed by January 6, 2015, or until the expiration of the appeal deadline on that date. It is possible for the plaintiffs to request an extension of the appeal deadline for up to 60 days. In short, until further notice, the photo ID requirement is not in effect. We will promptly communicate with local election officials when there is a change in the status of the photo ID requirement.

As we advised when the Supreme Court issued its ruling, please keep in mind how this affects your preparations for the Spring Primary, including the following:

1. Ensure that your Type E and Type B Notices do not mention a requirement to present a photo ID before obtaining a ballot. The sample Type E Notice is available at <http://gab.wi.gov/publications/election-notices/type-e> and the sample Type B Notice is available at <http://gab.wi.gov/publications/election-notices/type-b-spring-primary>.
2. All absentee ballots should be transmitted and processed without requiring that the elector submit a copy of his or her photo ID. The correct uniform instructions are posted at <http://gab.wi.gov/forms/voters-uniform-military> which we encourage you

- to use for new absentee ballot requests. Election Day voters are not required to submit a photo ID. No provisional ballots should be issued due to the lack of a photo ID.
3. While election officials are not to require electors to provide or present photo ID as a condition of obtaining a ballot, clerks should continue to process any photo ID that is submitted during the mail-in absentee process. The copy of the Photo ID should be retained with the voter's file and the clerk must keep a record that photo ID has been submitted for that voter, by using either the Statewide Voter Registration System or some other documentation. If the photo ID requirement is reinstated for future elections, a copy that has been submitted by a mail-in absentee voter will satisfy the photo ID requirement for future mail absentee requests, provided that the elector does not change his or her name or address.
 4. Emphasize to special voting deputies that the photo ID requirement is not in effect for voters residing in a nursing home or other adult-care facility.
 5. Emphasize to your staff and election inspectors that they must not request that an elector present a photo ID before a ballot is issued during in-person absentee voting or at the polls. If an elector offers to present a photo ID, the inspector should advise the voter that the requirement is not in effect. Inspectors should work to avoid creating an impression for voters waiting in line that they will need to present a photo ID. No signs should be posted which state or imply that the elector must present a photo ID as a condition of receiving a ballot.

As always, we appreciate your continuing efforts related to this topic. If you have any questions, please contact the G.A.B. Help Desk at gabhhelpdesk@wi.gov or (608) 261-2028. Thank you.