

GUIDANCE WITH RESPECT TO TWO ISSUES CONCERNING MILITARY WRITE-IN BALLOTS

Two questions with respect to Military Electors have been brought to our attention. We appreciate the confusion when reading and trying to interpret statutes that seem to conflict. Government Accountability Board Staff has reviewed the applicable statutes and is issuing formal guidance outlined below.

Question 1 – Should all military electors who have requested an absentee ballot be sent a write-in ballot regardless of whether they are stationed in-country or overseas?

Yes. Regardless of their location, all military electors (as defined in §6.22(1)(b), Wis. Stats.) who have requested an absentee ballot must be sent a write-in absentee ballot beginning 90 days before each primary and election. §6.25(2), Wis. Stats. Note: Civilian employees of the United States and civilians officially attached to a uniformed service must be serving outside the United States in order to qualify as a military elector.

Question 2 – What criteria must the returned write-in absentee ballot meet in order to be counted?

A write-in ballot can only be counted if (a) it is submitted from a location outside the U.S. and (b) the elector submitting the ballot does not submit an official ballot within the time prescribed in §6.87 (6). §6.25(4), Wis. Stats.

If the official ballot has not been received, consider whether the write-in ballot meets the criterion that the write-in ballot must be submitted from outside the U.S. The Military Postal Service sometimes routes overseas mail through a U.S.-based military base which shows an in-country postal date stamp. Therefore, it is not always easy to tell with certainty where the military mail originated, overseas or within the states. If the postmark on the write-in ballot indicates that the envelope was mailed from within the U.S., check to see where the ballot was sent in the first place. If it was sent overseas, it is likely it is coming back from overseas. If the origin of the ballot is still in question, the ballot should be challenged and initially counted.

Reconciling the Statutory Discrepancy

Since §6.25(1), and §6.25(4), Wis. Stats., conflict, the following instruction must be included with the uniform instructions when sending a write-in ballot to an "in-country" military elector:

"As a military elector, you are receiving a write-in absentee ballot pursuant to Secs. 6.22(1)(b) and 6.25(1), Wis. Stats. However, please note that a write-in absentee ballot from a military elector will only be counted as valid, if it is submitted from a location outside the United States (returned to the Clerk from a location outside the United States.) Sec. 6.25(4), Wis. Stats. An official absentee ballot will be sent to you when they are printed."

We hope this guidance is helpful. If you have questions, please contact the G.A.B. Help Desk at 608-261-2028, or at GABHelpDesk@wisconsin.gov. Thank you.

Prepared by Government Accountability Board Staff
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