

NOTICE OF OPEN AND CLOSED MEETING

Wisconsin Elections Commission

Meeting of the Commission
Wednesday, February 12, 2020
4:00 P.M.

Agenda
Open Session

Teleconference
Wisconsin Elections Commission Offices
212 E. Washington Avenue, Third Floor
Madison, Wisconsin

- A. Call to Order**
- B. Administrator's Report of Appropriate Meeting Notice**
- C. Guidance to clerks and voters about A/B ballots for the April 7 Presidential Preference and Spring Non-Partisan Election**
- D. Closed Session**

1. Potential Litigation

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| 19.85 (1) (g) | The Commission may confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. |
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E. Adjourn

The Elections Commission will convene in open session but may move to closed session under Wis. Stat. § 19.851 and then reconvene into open session prior to adjournment of this meeting. This notice is intended to inform the public that this meeting will convene in open session, may move to closed session, and then reconvene in open session. Wis. Stat. § 19.85 (2).



Wisconsin Elections Commission

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(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the February 12, 2020 Commission Meeting

TO: Members of the Wisconsin Elections Commission

FROM: Meagan Wolfe
Administrator

SUBJECT: Clerk Guidance Concerning 'A' and 'B' Ballots for the 2020 Presidential Preference Primary

Overview

This memorandum provides an overview of Wisconsin Elections Commission guidance in support of the state law that requires a ballot be sent to each voter with an active absentee request on file 47 days prior to the Presidential Preference Primary. The 47th day prior to the Presidential Preference Primary is February 20, 2020, which is only two days after the Spring Primary. This requirement is established by Wis. Stat. 7.15(1)(cm) which states:

"The clerk shall send or transmit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary if the request is made before that day, or, if the request is not made before that day, within one business day of the time the request is received."

This statutory provision was enacted in 2011 as part of 2011 Act 45. While this is the third Presidential Preference Primary for which the requirement was in effect, the focus of the 47-day deadline has previously been on providing absentee ballots to military and overseas electors in order to comply with the federal deadline of 45 days for those electors which was established by the MOVE Act of 2009. The Government Accountability Board was subject to a federal court consent decree in 2012 to report compliance with the federal deadline during the Presidential Primary. In 2016, the Board continued to focus on the federal deadline for military and overseas electors to receive absentee ballots and the state's 47-day deadline was used as a tool to comply with the federal requirement.

Despite this past practice, the above statutory language for the 47-day deadline clearly applies to all absentee voters with a request on file for the Presidential Preference Primary. The Legislative Council memo summarizing the legislation which became Act 45 highlighted that it required county clerks to distribute Presidential Preference Primary ballots to municipal clerks 26 days earlier than under previous law and also required municipal clerks to distribute those ballots to each elector who requested one 26 days earlier than under previous law. The agency's election calendar has also identified the 47-day deadline for all absentee ballots prior to the Presidential Preference Primary.

The process described below has been used on a smaller scale when partisan special elections were scheduled on the same day as regular nonpartisan elections. It is also in place for the special primary for

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the 7th Congressional District being held on the same day as the Spring Primary. Inquiries related to that special election prompted Commission staff to review whether the 47-day deadline for all absentee ballot requests applied to the Presidential Preference Primary. After concluding that it clearly applied to that election, Commission staff had no choice but to issue guidance to clerks regarding compliance with the statute, recognizing some significant challenges will likely arise, especially for jurisdictions with a large number of absentee voters.

Election results for the Spring Primary will not yet be certified prior to the 47-day transmission deadline, so clerks will have to prepare and send a Presidential Preference Primary-only ballot to all voters with valid absentee requests on file to meet this requirement. Clerks will then send an official, or full, ballot to all voters once those ballots are available (at least 21 days prior to election day).

Guidance on Processing and Counting Ballots

In support of this statutory requirement staff provided a memo that outlined administrative procedures for issuing, organizing and counting ballots to all county and municipal clerks on February 5, 2020. For the purposes of this process an 'A' ballot is defined as a Presidential-only ballot and a 'B' ballot is the official, or full, ballot containing the presidential preference contest and all other state, county and local contests. These procedures are similar or parallel to current procedures used to review and sort absentee ballots prior to election day and were designed to minimize poll worker confusion, create efficiency in ballot processing, avoid counting multiple ballots for a single voter and give voters the maximum opportunity to return a voted official ballot.

They are also consistent with how state law outlines absentee ballot processing at the polling place (Wis. Stat. § 6.88(3)) and at a central count facility (Wis. Stat. § 7.52(3)). These statutes state that after the absentee ballot certificate has been examined and deemed sufficient the poll workers "shall take out the ballot without unfolding it or permitting it to be unfolded or examined" and the "inspectors shall then deposit the ballot into the proper ballot box and enter the absent elector's name or voting number after his or her name on the poll list in the same manner as if the elector had been present and voted in person." These statutes support the earlier guidance provided to clerks that, in most instances, only the ballot that will be counted should be removed from the certificate envelope for processing. In addition, poll workers will not know if the ballot that is being processed has a vote for any specific contest, including the Presidential Preference contest. This process will make it difficult, if not impossible, for poll workers to try to control for undervotes in the Presidential Preference contest by comparing a voter's 'B' ballot to their 'A' ballot.

Staff guidance instructed municipalities to organize and alphabetize ballots into several different categories and further sort those ballots based on reporting unit and how they should be adjudicated on election day. An additional goal of these procedures is to ensure that more than one ballot is not counted for a voter who has returned both an 'A' and 'B' ballot. State law requires the number of ballots cast to be reconciled with the number of voters recorded on the poll list when votes are tallied. Wis. Stat. § 7.51(2) provides that any time the number of ballots exceeds the number of voters local board of canvassers members should draw down, or select ballots to be removed at random, until the numbers reconcile. This process requires separating likely absentee ballots from ballots voted at the polling place, with the ballots removed from the pool containing the extra ballots. The result of a draw down is unlikely to identify the exact extra ballots that should not have been counted and oftentimes result in the removal of ballots due to election official error. Similar reconciliation procedures are outlined for municipalities that centrally count their absentee ballots (Wis. Stat. 7.52(4)).

1. Sort by ballot type ('A' ballots and 'B' Ballots)
2. Further sort by voter type (permanent overseas ballots v. regular, military and temporary overseas ballots)
3. Identify ballots that can be counted v. ballots which need to be held until after 8:00 pm on election day for processing

In addition, the suggested order for processing ballots was identified for use by poll workers using the below guidelines. The categories and timelines were identified to ensure any voter with an outstanding 'B' ballot or a voter who has returned a 'B' ballot with an insufficient certificate envelope has every opportunity to return a voted absentee 'B' ballot for counting. These standards also acknowledge voters who returned an 'A' ballot by mail, but not their 'B' ballot still have the opportunity to vote a 'B' ballot in person on election day.

Process any time throughout the day:

1. 'A' ballots from permanent overseas voters with sufficient certificate envelopes
2. 'B' ballots from military, temporary overseas and regular voters with sufficient certificate envelopes

Hold for processing after 8:00 pm

1. 'A' Ballots from military, temporary overseas and regular voters who have not yet returned their 'B' ballot
2. 'A' Ballots from voters who returned a 'B' Ballot
3. 'B' Ballots from military, temporary overseas and regular voters with insufficient certificate envelopes

These procedures may also have the effect of delaying the final tabulation of unofficial election night results and the transmission of those results to the counties. There may be a significant number of ballots that should be held for processing until after the polls closed and the majority of the 'A' ballots must be remade before being processed on the optical scan equipment. These ballots will be remade using the statutorily required processes for remaking ballots that are outlined in WEC training materials.

Clerk and Poll Worker Training

In addition to the guidance that has already been provided to clerks, staff is preparing additional resources for clerks and poll workers to support these procedures. A live webinar is scheduled for February 13, 2020 that will outline administrative procedures for issuing, managing and processing 'A' and 'B' ballots in the clerk's office, at the polls on election day and in the statewide voter registration system. The webinar will be recorded and posted to the agency website or online learning center along with a document that provides answers to participant questions that are not answered live. Staff is also working on creating specific instructions, based on the guidance provided in the February 5, 2020 memo, for clerks when issuing and organizing ballots prior to processing on election day. An additional set of instructions is being created to outline the step-by-step procedures poll workers can use when processing and counting ballots on election day. An additional webinar focused on clerk preparations for this process is also being considered.

Revised Instructions for Voters

WEC staff has updated the instructions for voters that clerks are encouraged to provide with the ballots before mailing those to the voters. Staff has conducted usability sessions on the new instructions to ensure they have the effect of minimizing voter confusion. Instructional inserts have been provided for clerk use for both the 'A' ballots to set expectations that most voters should anticipate the arrival of a second ballot and a separate insert to accompany the 'B' that explains the purpose of the second ballot and plainly states they are eligible to vote in the Presidential Preference contest even if they have returned a voted 'A' ballot.

Relevant Statutory Citations:

47-day Ballot Requirement for All Voters Prior to Presidential Preference Primary (7.15(1)(cm)):

(cm) Prepare official absentee ballots for delivery to electors requesting them, and except as provided in this paragraph, send an official absentee ballot to each elector who has requested a ballot by mail, and to each military elector, as defined in s. 6.34 (1), and overseas elector who has requested a ballot by mail, electronic mail, or facsimile transmission, no later than the 47th day before each partisan primary and general election and no later than the 21st day before each other primary and election if the request is made before that day; otherwise, the municipal clerk shall send or transmit an official absentee ballot within one business day of the time the elector's request for such a ballot is received. The clerk shall send or transmit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary if the request is made before that day, or, if the request is not made before that day, within one business day of the time the request is received. For purposes of this paragraph, "business day" means any day from Monday to Friday, not including a legal holiday under s. 995.20.

Absentee Ballot Processing at Polling Place (6.88(3)):

(3)

- (a) Except in municipalities where absentee ballots are canvassed under s. 7.52, at any time between the opening and closing of the polls on election day, the inspectors shall, in the same room where votes are being cast, in such a manner that members of the public can hear and see the procedures, open the carrier envelope only, and announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the inspectors find that the certification has been properly executed, the applicant is a qualified elector of the ward or election district, and the applicant has not voted in the election, they shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. They shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. The inspectors shall take out the ballot without unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the inspectors shall verify that the ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of residence under s. 6.34 is required and proof of residence is enclosed, the inspectors shall enter both the type of identifying document submitted by the absent elector and the name of the entity or institution that issued the identifying document on the poll list in the space provided. If the poll list indicates that proof of residence under s. 6.34 is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, the inspectors shall proceed as provided under s. 6.97 (2). The inspectors shall then deposit the ballot into the proper ballot box and enter the absent elector's name or voting number after his or her name on the poll list in the same manner as if the elector had been present and voted in person.
- (b) When the inspectors find that a certification is insufficient, that the applicant is not a qualified elector in the ward or election district, that the ballot envelope is open or has been opened and resealed, that the ballot envelope contains more than one ballot of any one kind or, except in municipalities where absentee ballots are canvassed under s. 7.52, that the certificate of a military or overseas elector who received an absentee ballot by facsimile transmission or electronic mail is missing, or if proof is submitted to the inspectors that an elector voting an absentee ballot has since died, the inspectors shall not count the ballot. The inspectors shall endorse every ballot not counted on the back, "rejected (giving the reason)". The inspectors shall reinsert each rejected ballot into the certificate envelope in which it was delivered and enclose the certificate envelopes and ballots, and securely seal the ballots and envelopes in an envelope

marked for rejected absentee ballots. The inspectors shall endorse the envelope, "rejected ballots" with a statement of the ward or election district and date of the election, signed by the chief inspector and one of the inspectors representing each of the 2 major political parties and returned to the municipal clerk in the same manner as official ballots voted at the election.

- (c) The inspectors shall review each certificate envelope to determine whether any absentee ballot is cast by an elector whose name appears on the poll list as ineligible to vote at the election by reason of a felony conviction. If the inspectors receive an absentee ballot that has been cast by an elector whose name appears on the poll list as ineligible for that reason, the inspectors shall challenge the ballot as provided in s. 6.92 and treat the ballot in the manner provided in s. 6.95.

Absentee Ballot Processing at Central Count (7.52(3)):

3)

- (a) The board of absentee ballot canvassers shall first open the carrier envelope only, and, in such a manner that a member of the public, if he or she desired, could hear, announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47 (2). When the board of absentee ballot canvassers finds that the certification has been properly executed and the applicant is a qualified elector of the ward or election district, the board of absentee ballot canvassers shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector. The board of absentee ballot canvassers shall then open the envelope containing the ballot in a manner so as not to deface or destroy the certification thereon. The board of absentee ballot canvassers shall take out the ballot without unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the board of absentee ballot canvassers shall verify that the ballot has been endorsed by the issuing clerk. If the poll list indicates that proof of residence is required and no proof of residence is enclosed or the name or address on the document that is provided is not the same as the name and address shown on the poll list, the board of absentee ballot canvassers shall proceed as provided under s. 6.97 (2). The board of absentee ballot canvassers shall mark the poll list number of each elector who casts an absentee ballot on the back of the elector's ballot. The board of absentee ballot canvassers shall then deposit the ballot into the proper ballot box and enter the absent elector's name or poll list number after his or her name on the poll list.
- (b) When the board of absentee ballot canvassers finds that a certification is insufficient, that the applicant is not a qualified elector in the ward or election district, that the ballot envelope is open or has been opened and resealed, that the ballot envelope contains more than one ballot of any one kind, or that the certificate of a military or overseas elector who received an absentee ballot by facsimile transmission or electronic mail is missing, or if proof is submitted to the board of absentee ballot canvassers that an elector voting an absentee ballot has since died, the board of absentee ballot canvassers shall not count the ballot. Each member of the board of absentee ballot canvassers shall endorse every ballot not counted on the back as "rejected (giving the reason)." The board of absentee ballot canvassers shall reinsert each rejected ballot into the certificate envelope in which it was delivered and enclose the certificate envelopes and ballots, and securely seal the ballots and envelopes in an envelope marked for rejected absentee ballots. The board of absentee ballot canvassers shall endorse the envelope as "rejected ballots," with a statement of the ward or election district and date of the election, and each member of the board of absentee ballot canvassers shall sign the statement. The board of absentee ballot canvassers shall then return the envelope containing the ballots to the municipal clerk.

Reconciliation and Tally at Polling Place (7.51(2)):

(2) TALLYING.

- (a) The inspectors shall first compare the poll lists, correcting any mistakes until the poll lists agree. The chief inspector and the inspectors who are responsible for recording electors under s. 6.79 shall verify the correctness of the poll lists after the polls close by each signing their name thereto. Where ballots are distributed to electors, the inspectors shall then open the ballot box and remove and count the number of ballots therein without examination except as is necessary to ascertain that each is a single ballot. If 2 or more ballots are folded together so as to appear as a single ballot, the inspectors shall lay them aside until the count is completed; and if, after a comparison of the count and the appearance of the ballots it appears to a majority of the inspectors that the ballots folded together were voted by the same person they may not be counted but the inspectors shall mark them as to the reason for removal, set them aside and carefully preserve them. The inspectors shall then proceed under par. (b).
- (b) When during the counting of the ballots cast at an election a majority of the inspectors find that a ballot is so defective that they cannot determine with reasonable certainty for whom it was cast, they shall so mark the ballot and preserve it. The inspectors shall not count the vote cast on the ballot for any office for which they determine the ballot to be defective.
- (c) Whenever the number of ballots exceeds the number of voting electors as indicated on the poll list, the inspectors shall place all ballots face up to check for blank ballots. In this paragraph, "blank ballot" means a ballot on which no votes are cast for any office or question. The inspectors shall mark, lay aside and preserve any blank ballots. Except in municipalities where absentee ballots are canvassed under s. 7.52, if the number of ballots still exceeds the number of voting electors, the inspectors shall place all ballots face down and proceed to check for the initials. The inspectors shall mark, lay aside and preserve any ballot not bearing the initials of 2 inspectors or any absentee ballot not bearing the initials of the municipal clerk. During the count the inspectors shall count those ballots cast by challenged electors the same as the other ballots.
- (d) The inspectors shall keep a written statement, in duplicate, of the number of ballots set aside and the number of defective ballots and challenged ballots. The statement shall contain a record of the reasons for setting aside each ballot and the reasons why each defective or challenged ballot is defective or challenged. The inspectors shall certify that the statement is correct, sign it, and attach it to the tally sheets.
- (e) Except in municipalities where absentee ballots are canvassed under s. 7.52, if after any ballots have been laid aside, the number of ballots still exceeds the total number of electors recorded on the poll list, the inspectors shall separate the absentee ballots from the other ballots. If there is an excess number of absentee ballots, the inspectors shall place the absentee ballots in the ballot box and one of the inspectors shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of absentee ballots. If there is an excess number of nonabsentee ballots, the inspectors shall place those ballots in the ballot box and one of the inspectors shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of those ballots. All ballots so removed may not be counted but shall be specially marked as having been removed by the inspectors on original canvass due to an excess number of ballots, set aside and preserved. When the number of ballots and total shown on the poll list agree, the inspectors shall return all ballots to be counted to the ballot box and shall turn the ballot box in such manner as to thoroughly mix the ballots. The inspectors shall then open, count and record the number of votes. When the ballots are counted, the inspectors shall separate them into piles for ballots similarly voted. Objections may be made to placement of ballots in the piles at the time the separation is made.
- (f) If corrected ballots are distributed under s. 5.72 (3) or 7.10 (3), only the votes cast on the corrected ballots may be counted for any office or referendum in which the original ballots differ from the corrected ballots.
- (g) Immediately after the polls close, where voting machines are used, the inspectors shall open the registering or recording compartments or remove the record of the votes cast and shall canvass, record, announce and return on the tally sheets and certificates furnished. In recording the votes registered on any counter which, before the opening of the polls, did not register 000, the inspectors shall upon the return sheets

subtract the number registered before the polls opened from the number registered when the polls closed. The difference between the 2 numbers is the correct vote for the candidate whose name was represented by the counter, except if the number registered on the counter when the polls closed is smaller than the number registered thereon when the polls opened, the number 1,000 shall be added to the number registered when the polls closed, before the subtraction is made.

- (h) Where a voting machine is used which produces a written record of the total votes cast for each candidate or referendum, the written record shall be presumed correct without reference to the total shown on the recorder in making its original statement, unless an error in the record is clearly apparent or unless a candidate at the election, or in the canvass of a referendum an elector who voted at the referendum, requests that the machine be viewed.

Reconciliation and Tally at Central Count (7.52(4)):

(4)

- 7.52(4)(a)(a) The board of absentee ballot canvassers shall then open the ballot box and remove and count the number of ballots therein without examination except as is necessary to ascertain that each is a single ballot. If 2 or more ballots are folded together so as to appear as a single ballot, the board of absentee ballot canvassers shall lay them aside until the count is completed; and if, after a comparison of the count and the appearance of the ballots it appears to the board of absentee ballot canvassers that the ballots folded together were voted by the same person they shall not be counted but the board of absentee ballot canvassers shall mark them as to the reason for removal, set them aside, and carefully preserve them. The board of absentee ballot canvassers shall then proceed under par. (b).
- (b) When during the counting of the ballots cast at an election the board of absentee ballot canvassers finds that a ballot is so defective that it cannot determine with reasonable certainty for whom it was cast, the board of absentee ballot canvassers shall so mark the ballot and preserve it. The board of absentee ballot canvassers shall not count the vote cast on the ballot for any office for which it determines the ballot to be defective.
 - (c) Whenever the number of ballots exceeds the number of voting electors as indicated on the poll list, the board of absentee ballot canvassers shall place all ballots face up to check for blank ballots. In this paragraph, "blank ballot" means a ballot on which no votes are cast for any office or question. The board of absentee ballot canvassers shall mark, lay aside, and preserve any blank ballots. If the number of ballots still exceeds the number of voting electors, the board of absentee ballot canvassers shall place all ballots face down and proceed to check for the initials. The board of absentee ballot canvassers shall mark, lay aside, and preserve any ballot not bearing the initials of the municipal clerk. During the count, the board of absentee ballot canvassers shall count those ballots cast by challenged electors the same as the other ballots.
 - (d) The board of absentee ballot canvassers shall keep a written statement, in duplicate, of the number of ballots set aside and the number of defective ballots and challenged ballots. The statement shall contain a record of the reasons for setting aside each ballot and the reasons why each defective or challenged ballot is defective or challenged. The board of absentee ballot canvassers shall certify that the statement is correct, sign it, and attach it to the tally sheets.
 - (e) If, after any ballots have been set aside, the number of ballots still exceeds the total number of electors recorded on the poll list, the board of absentee ballot canvassers shall place the absentee ballots in the ballot box and one of the members shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of ballots. All ballots so removed shall not be counted but shall be specially marked as having been removed by the board of absentee ballot canvassers on original canvass due to an excess number of ballots, set aside, and preserved. When the number of ballots and total shown on the poll list agree, the board of absentee ballot canvassers shall return all ballots to be counted to the ballot box and shall turn the ballot box in such manner as to thoroughly mix the ballots.

The board of absentee ballot canvassers shall then open, count, and record the number of votes. When the ballots are counted, the board of absentee ballot canvassers shall separate them into piles for ballots similarly voted. Objections may be made to placement of ballots in the piles at the time the separation is made.

- (f) If corrected ballots under s. 5.06 (6) or 5.72 (3) are distributed under s. 7.10 (3), only the votes cast on the corrected ballots may be counted for any office or referendum in which the original ballots differ from the corrected ballots.
- (g) The board of absentee ballot canvassers shall place together all ballots counted by it that relate to any national, state, or county office or any state, county, or technical college district referendum and secure them together so they cannot be untied or tampered with without breaking the seal. The secured ballots, together with any ballots marked "Defective," shall then be secured by the board of absentee ballot canvassers in the ballot container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The board of absentee ballot canvassers shall place the ballots cast under s. 6.97 in a separate, securely sealed carrier envelope which is clearly marked "Section 6.97 ballots." Each member of the board of absentee ballot canvassers shall sign the carrier envelope. The carrier envelope shall not be placed in the ballot container. The board of absentee ballot canvassers shall then deliver the ballots to the municipal clerk in the ballot container and carrier envelope.
- (h) For ballots that relate only to municipal or school district offices or referenda, the board of absentee ballot canvassers, in lieu of par. (a), after counting the ballots shall return them to the proper ballot boxes, lock the boxes, paste paper over the slots, sign their names to the paper, and deliver them and the keys therefor to the municipal or school district clerk. The clerk shall retain the ballots until destruction is authorized under s. 7.23.
- (i) All absentee certificate envelopes that have been opened shall be returned by the board of absentee ballot canvassers to the municipal clerk in a securely sealed carrier envelope that is clearly marked "used absentee certificate envelopes." The envelopes shall be signed by each member of the board of absentee ballot canvassers. Except when the ballots are used in a municipal or school district election only, the municipal clerk shall transmit the used envelopes to the county clerk.



Wisconsin Elections Commission

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MEMORANDUM

TO: Wisconsin County Clerks and the Milwaukee County Election Commission
Wisconsin Municipal Clerks and the Milwaukee City Election Commission

FROM: Meagan Wolfe, Administrator
Richard Rydecki, Assistant Administrator
Wisconsin Elections Commission

DATE: February 5, 2020

SUBJECT: Issuing and Managing 'A' and 'B' Ballots for the Spring Election and Presidential Preference Vote

Clerks will be required to issue 'A' and 'B' ballots for the Spring Election and Presidential Preference Vote due to state law. **Wis. Stat. § 7.15(1)(cm) states "The clerk shall send or transmit an absentee ballot for the presidential preference primary to each elector who has requested that ballot no later than the 47th day before the presidential preference primary if the request is made before that day, or, if the request is not made before that day, within one business day of the time the request is received."** This requirement is in addition to the 47-day deadline under federal law to send absentee ballots to all UOCAVA voters (military and overseas) prior to each federal election.

This memo will attempt to explain the reasons two separate ballots are necessary, provide instructions for tracking these ballots in WisVote, answer frequently asked questions and plainly address the procedures for issuing the ballots and processing them on election day. The WEC will also offer additional training on these processes as we get closer to the deadlines and milestones for the Spring Election and Presidential Preference Vote. This memo includes registration information for an already scheduled webinar on this topic.

Deadline: February 20, 2020 (47 days prior to the Presidential Preference Vote)

Action Required: All Wisconsin clerks are required to send Presidential Primary-only ballots, or 'A' ballots, to all voters with absentee requests on file prior to the deadline. Ballots for UOCAVA voters are included in this requirement and should be given priority when meeting this deadline as the primary purpose of the federal and state laws is to allow sufficient time for military and overseas voters to receive and return their ballots.

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Details: The 'A' ballot that will initially be sent will only contain the Presidential Preference contest and will be provided by the county clerk. It will be created using the hand-count paper ballot template and will not be able to be used with optical scan equipment. The 'B' ballot, or full ballot, will contain both the Presidential Primary contest and all other Spring Election contests. This ballot will be sent to all voters with an absentee request on file once they have been provided by the county clerk, except for permanent overseas voters who are only eligible to vote for federal offices. This means that absentee voters with valid requests prior to receiving the full spring ballot will receive two ballots ('A' and 'B') for the Spring Election and Presidential Preference Vote on April 7, 2020.

Background Information

The Spring Election and Presidential Preference Vote combines a state and local nonpartisan election with a federal partisan primary: two distinctly different types of election events held simultaneously. Because such diametrically dissimilar elections are only conducted together once every four years, statutory requirements for the two types of election have evolved divergently to create a combined election which can be challenging and confusing to administer.

The foremost issue is the statutory conflict between absentee ballot lead times. For state and local elections, the deadline to send ballots to voters with an absentee application on file is 21 days before the election. For partisan and federal elections, the deadline is much earlier – 47 days before the election. 47 days before April 7, 2020 is February 20 – two days after the spring primary which is on February 18. This is well before the results of the primary are certified. For that reason, all voters (except voters in care facilities or retirement homes served by SVDs) who have absentee ballot requests on file with the municipal clerk must be sent the Presidential Preference-Only ballot no later than February 20.

'A' Ballot: Presidential Preference Only Absentee Ballot EL-204

**** The Presidential Preference-Only ('A') ballot *IS NOT* for new residents that do not meet the durational residency requirement or for former residents that cannot register to vote in their new state. Those provisions are only applicable to the Presidential Election in November. ****

Municipal clerks must send the Presidential Preference-Only ('A') ballot to *all* voters (not just UOCAVA voters) that have absentee ballot requests on file no later than February 20, 2020, *with the exception of voters in care facilities or retirement homes served by SVDs*. Voters whose absentee ballot requests are received after February 20 are sent an 'A' ballot within one business day of receiving the request. 'A' ballots are sent in response to all absentee ballot requests until official Spring Election and Presidential Preference Vote ballots ("official ballots" or 'B' ballots) are prepared and delivered to the municipal clerks. After the official ballot is available, only that full ballot will be issued for new requests, except for permanent overseas electors who may vote only in federal contests.

There are two 'A' ballot styles to choose from. Only these two ballot styles may be sent as an 'A' ballot:

EL-204 Traditional Hand Count Ballot

Staple together at bottom in this order:

EL-204i Instruction Sheet (on top)
EL-204 Democratic ballot
EL-204 Republican ballot
(EL-229 on back of each ballot)

EL-204cons Consolidated Hand-Count Ballot

- Both parties are on one ballot with a Party Preference Section.
- The endorsement section is incorporated into the ballot.
- No additional instruction sheet is required.

Procedure

EL-204 Traditional and Consolidated Hand Count Ballots

- No later than February 19, the county clerk will provide the 'A' ballot in hard copy or as a pdf.
- Mailed traditional hand-count paper 'A' ballots (EL-204) must have an EL-229 on the back of each party ballot. Each party ballot must be initialed by the clerk or deputy clerk and include the instructional coversheet (EL-204i).
- Traditional hand-count paper 'A' ballots (EL-204) sent electronically must be accompanied by an EL-229 and initialed by the clerk or deputy clerk. The face of the ballot is also initialed.
- A mailed consolidated hand-count paper 'A' (EL-204cons) ballot has the endorsement (the section where the municipal clerk initials the ballot) incorporated on the face of the ballot. The clerk or deputy clerk must initial in the endorsement section.
- Before sending an 'A' ballot, write an 'A' on the certificate envelope. If sending the ballot electronically, write an 'A' on the certificate sent with the ballot.
- Include the Uniform Instructions, as usual. <https://elections.wi.gov/forms/voters-uniform-instructions>
- Include an explanation of why the voter is receiving the ballot and that they will be receiving an official ballot toward the middle of March. An explanation accompanies this memo.
- The 'A' ballot may be remade onto an OS ballot on election day or hand counted.

'B' Ballot: Official Spring Election and Presidential Preference Ballot EL-209

The 'B' ballot is the official Spring Election and Presidential Preference Vote ballot. The county clerk will provide the official 'B' ballots to their municipal clerks no later than March 16. Municipal clerks will stop sending ballot 'A' as soon as the 'B' ballots are received from the county clerk. Below are the available ballot styles.

Hand-Count Paper Ballots

- **For municipalities that use traditional, hand-count ballots:**

EL-209 *2020 Spring Election-Pres Pref-Paper Ballot-state and county.* (You will need one for each party.)

Each ballot must contain an endorsement back (EL-229). The two separate party ballots are stapled at the bottom with the Democratic ballot on top. The instructions on both ballots remind the voter to only vote on one of these ballots. Upon return by the voter, the unused ballot is placed in a locked discard box and the voted ballot is placed in a ballot box for federal/state/county ballots.

Any municipal, school district or referendum ballots are also given to the voter. The voter votes on each of these ballots and deposits them in the appropriate ballot boxes.

- **If the county clerk prepares consolidated paper ballots for municipalities:**

EL-209 *2020 Paper Consolidated Spring Election & Pres Pref.* (You will need one for each party.)

There is a sample for numbered and unnumbered town supervisors, villages and cities.

Optical Scan Ballots

EL-209 There are Arrow and Oval Versions for Towns with numbered and unnumbered seats, villages and cities.

Procedure

- No later than March 17, send a 'B' ballot (official ballot) to all voters who were sent an 'A' ballot, **except permanently overseas voters.**
 - Before mailing a 'B' ballot, write a letter 'B' on the certificate envelope and initial the ballot in the endorsement section.
 - Before transmitting a 'B' ballot electronically, write a letter 'B' on the absentee certificate and initial the ballot in the endorsement section and on the face of the ballot.
 - Include the Uniform Instructions, as usual. <https://elections.wi.gov/forms/voters-uniform-instructions>
 - Include an explanation of why the voter is receiving the ballot and that the 'B' ballot will be counted if both are returned. An explanation accompanies this memo.

Requests for Absentee Ballots Received After Official Ballots Have Been Received

For absentee ballot requests received after the county clerk has delivered the B (official) ballots, send the voters an official ballot within one business day of receiving the request. No more A ballots will be sent; *unless a request from a permanent overseas voter is received.*

Processing 'A' and 'B' Ballots at the Polling Place

Many voters will be sent both 'A' (Presidential Preference-Only) and 'B' (official) ballots for this election. It is important that returned absentee ballots be organized prior to sending them to the polling place or central count facility for processing. For voters who have returned both an 'A' (Presidential Preference-Only) and a 'B' (official) ballot, the 'B' ballot will be counted, and the 'A' ballot will be rejected. If a voter has only returned an 'A' ballot, that ballot must be counted after the polls close on election day. Returned 'B' ballots can be processed throughout election day.

Please use the following procedures to process these absentee ballots on election day:

- Returned 'A' ballots should be separated from returned 'B' ballots.
- Show the election inspectors how to identify 'A' and 'B' ballots.
- 'A' ballots from all voters except permanent overseas voter should be held until after 8:00 p.m., along with 'B' (official) ballots with insufficient certificate envelopes.
- 'A' ballots from permanent overseas voters with sufficient certificate envelopes may be processed throughout the day, as these voters would not have received a 'B' (official) ballot.
- 'B' (official) ballots with sufficient certificate envelopes may be processed throughout the day.
- After 8:00 p.m., the 'B' (official) ballots with insufficient certificate envelopes that were not remediated by the voter on election day are rejected.
- After 8:00 p.m., the 'A' ballots are checked against the poll list and only processed if there is no voter number next to the voter's name.
 - When marking the absentee ballot log that the 'A' ballot was processed, you may find that the voter's 'B' ballot was rejected. If the 'B' ballot was rejected, the 'A' ballot is still processed.
- 'A' ballots received from voters who have a voter number next to their name on the poll list are rejected.
- 'A' ballots tabulated by optical scan equipment first must be remade.

Creating and Tracking 'A' and 'B' Ballots in WisVote

Presidential Preference-Only Ballot – Ballot 'A'

Follow the normal absentee process in WisVote to create the Presidential Preference-Only ballot ('A'). The 'A' ballot is the ballot that will be sent out on February 20, 2020 and until the complete 2020 Spring Election and Presidential Preference Vote ballot (ballot 'B') is provided by the county clerk. The deadline for the county clerk to deliver the 'B' ballots to the municipal clerks is March 16, 2020. After issuing an 'A' ballot, the *Date Ballot Sent* must be populated or the date must be entered manually. *(Mark the certificate envelope with the letter 'A' in order to tell what ballot is returned to the clerk's office).*

Spring Election and Presidential Preference Vote Ballot – Ballot 'B'

Between February 21 and March 15, WEC staff will generate the 'B' ballot records in WisVote, so that clerks can track when a 'B' ballot was mailed to those who were also sent an 'A' ballot. In WisVote it will look like another absentee ballot record for the individuals who were sent 'A' ballots. The absentee ballot records are not labeled 'A' or "B," or differentiated in any other way in WisVote, so clerks will need to look at the *Date Ballot Sent* to know which ballot is which when recording their return status. (*Mark the certificate envelope with the letter 'B' in order to tell what ballot is returned to the clerk's office*).

WEC staff will reach out to clerks once the 'B' ballot absentee ballot records have been created in WisVote. If clerks receive and enter more absentee requests after receiving the WEC notification, and it is before the 'B' ballot is provided by the county, clerks should notify the Help Desk so the 'B' ballot record can be generated as soon as possible.

Any voter making an absentee request on or after March 16, 2020 (or whenever the 'B' ballots are provided by the county clerk), will only be mailed the 'B' ballot and will not have two absentee ballot records in the system.

Managing Returned 'A' and 'B' Ballots in WisVote

There are three scenarios for returned ballots from voters who were sent both 'A' and 'B' ballots. The voter could return:

- only the 'A' ballot
- only the 'B' ballot
- both the 'A' and the 'B' ballots

All absentee returned ballots must be tracked and have their status updated in WisVote.

- If only the 'A' ballot is returned--
 - Mark with *Date Ballot Returned* and *Ballot Status Reason* as "Returned" (Leave the 'B' ballot as "Not Returned.")
- If only the 'B' ballot is returned—
 - Mark with *Date Ballot Returned* and mark *Ballot Status Reason* as "Returned" (Leave Ballot 'A' as "Not Returned.")
- If **both** the 'A' ballot and the 'B' ballot are returned—
 - Mark the 'A' ballot with *Date Ballot Returned* and mark *Response Type* as "Returned, to be Rejected," AND mark the 'B' ballot with *Date Ballot Returned* and *Ballot Status Reason* as "Returned."

Important: For this process to work, we strongly suggest you do not attempt to issue any absentee ballots in the 2020 Spring Election and Presidential Preference Vote until February 13th. We also suggest you do not check your Contests Complete or Candidates Complete checkpoints until after you have issued all Presidential Preference-Only ("A") ballots.

Staff will be offering a webinar to discuss these procedures and answer questions about these requirements. Link to register for the webinar at 10:00 a.m. on February 13, 2020:

<https://attendee.gotowebinar.com/register/1529351809697705739>

Frequently Asked Questions

Q: When must 'A' ballots be sent to voters?

A: The Presidential Preference-Only ('A') ballot must be sent to all voters with an absentee ballot request on file no later than February 20, 2020, *with the exception of voters in care facilities or retirement homes served by SVDs*. Voters whose absentee ballot requests are received after February 20 are sent an 'A' ballot within one business day of receiving the request. 'A' ballots are sent in response to all absentee ballot requests until official Spring Election and Presidential Preference Vote ballots ("official ballots" or 'B' ballots) are prepared and delivered to the municipal clerks.

Q: When sending the 'A' ballot should I also include an explanation to the voter that tells them why they are receiving this ballot?

A: You should include a brief explanation as to why the 'A' ballot was sent. The explanation should inform the voter that they can vote and return the 'A' ballot and they may vote and return the official ('B') ballot when they receive it in March. An explanation for the voter is included with this memo.

Q: When will 'B' Ballots (official ballots) be available?

A: County clerks are required to provide official ballots to municipal clerks by March 16, 2020 for the Spring Election and Presidential Preference Vote.

Q: If 'A' ballots were already sent to voters with absentee requests on file, do I need to also send 'B' ballots (official ballots) to those voters once they are provided by the county clerk?

A: Yes, all voters should also be sent a 'B' ballot once those have been provided to you. *The only exception is permanent overseas voters*; they are only eligible to receive an 'A' ballot for the Spring Election and Presidential Preference vote because they may only vote for federal offices.

Q: When sending the follow up 'B' (official) ballots should I also include an explanation to the voter that tells them why they are receiving another ballot?

A: Yes, you should include a brief explanation as to why the additional ballot was sent. The explanation should inform the voter that they can vote and return the 'B' ballot as a replacement for the initial ballot that only listed the Presidential Preference Vote. An explanation for the voter is included with this memo.

Q: May I offer in-person absentee voting with only 'A' ballots (Presidential Preference-Only) until the 'B' ballots (full ballot) are ready?

A: There is no restriction on offering in person absentee hours with only 'A' ballots until the full ballots are ready. You should explain the situation to each voter and let them know they are still eligible to vote an official ('B') ballot once it is available. If the voter wishes to request an official ballot for the Spring Election, you should obtain a written request. In addition to other forms of a written request, you may create a form that in-person absentee voters can sign to request a Spring Election ballot.

Q: What happens if a voter returns both ballots?

A: You will instruct your poll workers to count the official or 'B' ballot. The 'A' ballot will be sent to the polls to be rejected and should be kept and stored with your election materials. However, if the 'B' ballot is rejected because of certificate or other errors, then the 'A' ballot is counted.

Q: If a voter did not cast a vote for president on the 'B,' should the inspectors open the 'A' ballot and count the vote for president?

A: No. If the voter did not vote for president on the 'B' ballot, poll workers may not transfer that vote from the 'A' ballot onto the 'B' ballot.

Q: What happens if a voter who only voted an absentee 'A' ballot either in-person or by mail comes into their polling place on Election Day and wants to vote a full ballot?

A: The voter should be allowed to receive and vote a full ballot on Election Day. The voter should have a watermark in the poll book that indicates they were issued an absentee ballot, but we recommend marking the poll book to indicate these voters only received an 'A' ballot and are still eligible for the full, or 'B' ballot.

Q: Does this mean we should not process the 'A' ballots until after the polls close on Election Day?

A: Yes, the 'A' ballots should be held until after 8:00 PM in the event one of these voters shows up and wants to vote a full ballot.

If you have any questions concerning this memorandum, please contact the Help Desk at 608-261-2028 or elections@wi.gov.

Explanation to accompany Presidential Preference-Only (A) Ballots

Dear Voter:

The enclosed ballot is a "Presidential Preference-Only" ballot. This ballot has been sent to you in order to comply with Wis. Stat. 7.15(1)(cm), which requires ballots for the Presidential Preference Vote to be sent to absentee voters 47 days before the election, which is also before Wisconsin's spring primary results are certified.

When the results of the February 18, 2020 spring primary have been certified, you will receive a full ballot which will contain the Presidential Preference Vote contest as well as all judicial offices up for election in your municipality and any applicable county, municipal and school district offices.

Please vote and return this ballot. When you receive the full ballot around the middle of March, vote and return that ballot, also. When absentee ballots are processed on election day, whichever ballot has been returned will be counted. If both ballots have been returned, the full ballot will be counted, and the Presidential Preference-Only ballot will be rejected.

If you have questions, please contact me.

Name of municipal clerk and contact information

Explanation to accompany Official Spring Primary and Presidential Preference (B) Ballot

Dear Voter:

A few weeks ago, you were sent a "Presidential Preference-Only" ballot. This ballot was sent to you in order to comply with Wis. Stat. 7.15(1)(cm), which requires ballots for the Presidential Preference Vote to be sent to absentee voters 47 days before the election. You were instructed to vote and return the Presidential Preference Only ballot and advised that you would be sent a full ballot containing the Presidential Preference Vote contest as well as all judicial offices up for election in your municipality and any applicable county, municipal and school district offices in March.

The enclosed ballot is the Official Ballot for Spring Primary and Presidential Preference Vote. **Please vote and return this ballot**, even if you voted and returned the Presidential Preference-Only ballot. **You should vote for the Office of President on this ballot even if you have voted for President and returned the earlier ballot.** When absentee ballots are processed on election day, whichever ballot has been returned will be counted. If both ballots have been returned, the full ballot will be counted, and the Presidential Preference-Only ballot will be rejected.

If you have questions, please contact me.

Name of municipal clerk and contact information



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

MEMORANDUM

TO: Wisconsin 7th Congressional District County Clerks
Wisconsin 7th Congressional District Municipal Clerks

FROM: Diane Lowe, Lead Elections Specialist
Wisconsin Elections Commission

DATE: November 29, 2019

SUBJECT: Sample Ballots for February 18, 2020 Spring Primary and Partisan Primary for Congressional District 7

At the Spring Primary for Judicial Offices and County and Local Nonpartisan offices, a Special Primary will be held to fill a vacancy in the office of Representative in Congress, District 7. *State law* requires the municipal clerk to mail or transmit a ballot for a federal election (and primary, if required) to all voters with an absentee ballot request on file no later than 47 days before the primary and before the election. *Federal law* also requires that such ballots be sent for federal primaries and elections at least 45-days before the date of the primary and election, under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

Sample paper and optical scan ballots for the 2020 Spring Primary and Partisan Primary in counties and municipalities in the 7th Congressional District are included with this memo.

Congressional District 7 "CD7-Only" Absentee Ballot

The primary for Congressional District 7 is a partisan federal election. To meet the 47-day transit time under *state law* and the 45-day transit time under *federal law* for federal elections, an **EL-201 CD7-Only** Absentee Ballot must be mailed or transmitted to voters with an absentee ballot request on file no later than **January 2, 2020**.

An **EL-201 CD7-Only** Absentee Ballot is an official ballot listing only the Congressional District 7 office. If the request is made after January 2, 2020, the ballots must be sent within one business day of the request. This is the only ballot that should be sent to permanent overseas voters.

EL-201CD7-Only Absentee Ballot

EL-229 CD7-Only Reverse side of EL-201CD7-Only absentee ballot.

Wisconsin Elections Commissioners

Dean Knudson, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Mark L. Thomsen

Administrator
Meagan Wolfe

Preparing EL-201 CD7-Only Absentee Ballots

County Clerks must prepare this ballot and deliver it to the municipal clerks no later than January 1, 2020. A PDF may be used. Ballot order for the Congressional District race will be known no sooner than the second week in December. Because the **EL-201 CD7-Only** ballot is strictly an absentee ballot, a consolidated hand-count paper ballot may be used if it contains a party preference selection. A party preference selection on a paper ballot offers the absentee voter the same protection against crossover voting as an optical scan ballot.

If your municipality uses optical scan equipment, and you would rather prepare the **EL-201 CD7-only** ballot as an optical scan ballot so that your equipment can be programmed to read it, you may do so. Otherwise the paper **EL-201CD7-Only** ballot may either be hand counted or remade onto an optical scan ballot on election day.

When the official Spring Primary and Congressional District 7 primary ballots are prepared, municipal clerks will send an official ballot to voters who were previously sent an **EL-201CD7-only** ballot, *except permanent overseas voters*. Permanent overseas voters may only vote for national office. Therefore, they are not sent an official ballot containing any state, county, or municipal offices.

Spring Primary/Congressional District 7 Primary Ballots

Hand-Count Paper Ballots

The sample ballot for the spring primary is a consolidated ballot and contains the special partisan primary. There are currently three ballot status parties in Wisconsin—the Democratic, Republican and Constitution Parties. Each voter will receive three ballots stapled together at the bottom. Each ballot will contain one party's primary for Congressional District 7 followed by all nonpartisan primary contests. The party name is inserted at the top of the ballot. The ballots are placed in the following order (Democratic Ballot on top).

EL-208 Paper Consolidated Spring Primary and Special Partisan Primary-**DEM**.
EL-208 Paper Consolidated Spring Primary and Special Partisan Primary-**REP**
EL-208 Paper Consolidated Spring Primary and Special Partisan Primary-**CON**

There is one sample ballot. It is for towns with unnumbered seats. I have included a list of all offices that could be up for election in the spring. *Please reference the list to ensure that the municipal portion of the ballots contains the proper office titles and correct office order.*

Optical Scan Ballots

The optical scan ballots for the spring primary contain the congressional district special primary. There are two sample ballots; an arrow ballot (Towns with unnumbered seats) and an oval ballot (cities). I have included a list of all offices that could be up for election in the spring. *Please reference the list to ensure that the municipal portion of the ballots contains the proper office titles and correct office order.*

EL-208mc OS Ballot-Spring Primary and Special Partisan Primary (Ovals)
EL-208mtu OS Ballot-Spring Primary and Special Partisan Primary (Arrows)

If you have any questions concerning this memorandum, please contact the Help Desk at 608-261-2028 or elections@wi.gov.

Kitts, Jodi - ELECTIONS

From: Kitts, Jodi - ELECTIONS
Sent: Wednesday, December 11, 2019 5:54 PM
To: Kitts, Jodi - ELECTIONS
Subject: Further WisVote Instructions for CD7 Special Primary A/B Ballots - From WEC!

Hello,

Below are some further WisVote instructions for the Congressional District 7 Special Primary elections, specifically how you handle the absentee ballots in WisVote.

WisVote Specific Absentee A/B Ballots Instructions for Municipalities in Congressional District 7

You should have received the instructions sent out by Diane Lowe on Monday, December 9, 2019 regarding the A and B Ballots for the February 18, 2020 Spring Primary and Special Primary Congressional District 7 elections. We wanted to clarify how this process will work, specifically in WisVote, when there is a need for 2 ballots to be issued to a voter. **Multiple absentee ballot records will need to be created in WisVote for Special Primary for the Representative in Congress, District 7. Clerk or data entry users cannot issue additional absentee ballots in WisVote, so WEC will have to create the additional record on your behalf.**

Ballot A (First ballot) Congressional District 7-only Ballot

Ballot A will list only the primary for Congressional District 7 and must be sent out on January 2, 2020. You will continue to send out Ballot A until you receive the complete 2020 Spring Primary ballots (that also include the CD7 contest) for which the deadline for delivery is January 28, 2020). You will follow your normal absentee process in WisVote which will create Ballot A (first ballot). After you issue Ballot A, please make sure the Date Ballot Sent populated or you can manually enter it as well. ***Mark the absentee certificate envelope with the letter "A" so you can identify what ballot is returned to the clerk's office.***

Permanent Overseas voters are only eligible to vote in the Congressional District 7 Special Primary. They should only receive Ballot A.

Ballot B (Second ballot) Full Spring Primary Ballot (including Congressional District 7 contest)

Between January 3-27, 2020 WEC staff will generate the Ballot B records (second ballots). It will look like another absentee ballot record for the individuals who were sent Ballot A. The absentee ballot records are not labeled A or B, or given any other designation in WisVote, between the two ballot types, so you will need to look at the Date Ballot Sent to know which ballot is which when recording their return status. ***Mark the absentee certificate envelope with the letter "B" so you can tell what ballot is returned to the clerk's office.****

WEC staff will reach out to you once the Ballot B absentee ballot records have been created. After WEC staff notifies you, if you receive and enter more absentee requests before you receive your 2nd ballots in your office, please notify the Help Desk so we can generate the Ballot B record for you as soon as possible.

Any voter making an absentee request on or after January 28, 2020 (or whenever you have received the full 2019 Spring Primary ballot in your office), will only be mailed that one ballot (Ballot B) and will not have two absentee ballot records in the system.

As a reminder, from voters who were sent both Ballot A and Ballot B, the clerk's office could receive:

- only "Ballot A" **Congressional District 7-only Ballot**
- only "Ballot B" **Full Spring Primary Ballot (including Congressional District 7 contest)**

- both ballots

All returned absentee ballots need to be tracked and have their status updated in WisVote.

If you receive back only Ballot A by 8 pm on Election Day, mark the WisVote record with **Date Ballot Returned** and **Ballot Status Reason** as Returned (leave Ballot B as Not Returned)

If you receive back only Ballot B by 8 pm on Election Day, mark the WisVote record with **Date Ballot Returned** and **Ballot Status Reason** as Returned (leave Ballot A as Not Returned)

If you receive both Ballot A and Ballot B by 8 pm on Election Day, you will want to mark the WisVote record for Ballot A with **Date Ballot Returned** with **Response Type** of Returned, to be Rejected AND mark the record for Ballot B with **Date Ballot Returned** and **Ballot Status Reason** as Returned

NOTE: If you receive Ballot A back and process it as Returned, and then receive Ballot B, you will want to update Ballot A to Ballot Status of Returned, to be Rejected

* On the previous communication sent yesterday by Diane, we said this:

When mailing Ballot B, please include information explaining the reason for the B ballot, the importance of voting the complete B ballot and returning it promptly, and details of any consequences should the voter choose not to return it.

We did not provide specific language as what exactly to say because you each have your own way of speaking that is comfortable for you, but here is an example provided to us by a county of what language they will be using.

(It is probably better guidance to put the communication in Ballot A, rather than Ballot B, but either will work, you will just need to adjust your message).

Sample language:

Please note:

You are being sent this absentee ballot in order to comply with Wisconsin State Statute Chapter 7.15(1)(cm), which provides that ballots containing a federal office must be sent to voters who have requested a ballot 47 days before the primary or election.

This ballot contains only the candidates for the special partisan primary for the office of Representative in Congress, District 7.

A complete ballot that will include nonpartisan state and local offices **AND** the special partisan primary in Congressional District 7, will be sent to you after the candidates for state and local nonpartisan offices are known.

Your options are:

1. ***Vote this ballot and mail it back to the Clerk's office; or***
2. ***Wait until the full ballot is mailed out and complete that ballot; or***
3. ***Complete both ballots (if both ballots are received in the Clerk's office only the full ballot, with all offices, will be counted).***

Any questions should be addressed to your municipal clerk.

If you have any further questions, please contact us and let us know. You can reach the Help Desk at elections@wi.gov or 608-261-2028.

Kind regards,

Jodi Kitty

WisVote Elections Specialist
Wisconsin Elections Commission
My direct line: (608) 261-2011

WEC Help Desk: (608) 261-2028

**Instructions for Ballot A and Ballot B absentee ballots for 2020 Spring Primary and
Special Primary for the office of Representative in Congress, District 7 (CD7)**

For the 2020 Spring Primary and Special Primary for Congressional District 7, voters requesting absentee ballot who reside in Congressional District 7 could potentially receive two ballots, depending on when their absentee ballot request is made.

"Ballot A" is the ballot that only has the CD7 contest on it.

"Ballot B" is the ballot that has all contests on it for the 2020 Spring Primary, including the CD7 contest.

When mailing or transmitting absentee ballots, mark the certificate envelope with an **"A"** or a **"B"** so you can identify which envelope(s) are returned to the clerk's office.

When mailing Ballot B, please include information explaining the reason for the B ballot, the importance of voting the complete B ballot and returning it promptly, and details of any consequences should the voter choose not to return it.

1. Voters with absentee ballots requests on file by January 2nd will initially be sent **"Ballot A"** on 1/2/2020. They will also need to be sent **"Ballot B"** by 1/28/2020 (21-day state deadline for the Spring Primary). These voters will receive both **"Ballot A"** and **"Ballot B."** Permanent overseas voters are not sent "Ballot B".
2. Absentee ballots requests that are processed between 1/2/2020 – 1/27/2020* will initially be sent **"Ballot A."** All voters who were sent **"Ballot A"** (except for permanent overseas voters) will also be sent Ballot B by 1/28/2020. These voters will get both **"Ballot A"** and **"Ballot B."**
3. Absentee ballot requests from military and temporary overseas voters that are processed on and after 1/28/2020* will only be sent **"Ballot B."** These voters will only get one ballot; **"Ballot B."** Permanent overseas voters who make ballot requests after 1/28/2020 will still receive a ballot that only lists the CD 7 contest.

*January 28th is deadline for when absentee ballots for the 2020 Spring Primary need to be mailed (you have 24 hours to process requests so that is why it shows 1/27/2020 in bullet 2). If you receive your ballots sooner, you can send out **"Ballot B"** sooner; the date is flexible based on when you receive your complete 2020 Spring Primary ballots.

Absentee Ballots Received by the Municipal Clerk Up to Election Day

From voters who were sent **A and B** ballots, the clerk's office could receive:

- only **"Ballot A"**
- only **"Ballot B"**
- both ballots

The municipal clerk should retain all ballots returned by a voter who was issued multiple ballots. Before delivering absentee ballots to the polling place or central count location on Election Day, the municipal clerk should separate into the 3 potential ballot scenarios:

1. Only "Ballot A" has been returned by 8 p.m. on Election Day = **Process "Ballot A"**
(For WisVote Tracking: Mark Date Ballot Returned. Ballot Status Reason will appear as Returned)
2. Only "Ballot B" has been returned by 8 p.m. on Election Day = **Process "Ballot B"**
(For WisVote Tracking: Mark Date Ballot Returned. Ballot Status Reason will appear as Returned)
3. Both "Ballot A" and "Ballot B" have been returned = **Reject "Ballot A" and process "Ballot B"**
(For WisVote Tracking: For **"Ballot A,"** mark Date Ballot Returned with Response Type of Returned, to be Rejected in WisVote. For **"Ballot B,"** mark Date Ballot Returned. Ballot Status Reason will appear as Returned).



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: January 31, 2020

TO: County and Municipal Clerks in Congressional District 7

FROM: Meagan Wolfe Richard Rydecki
Administrator Assistant Administrator

SUBJECT: FAQs Regarding Absentee Ballots for the Congressional District 7 Special Primary

The Wisconsin Elections Commission (WEC) has received several questions regarding absentee ballot procedures and scenarios related to the Special Primary for Congressional District 7 (CD 7). The WEC certified candidates for the Spring 2020 election cycle on January 14 and enough Supreme Court Justice candidates qualified for the ballot to ensure there will be a statewide Spring Primary. Staff has received calls with questions regarding how this change impacts the Special Primary in CD 7 and we have provided answers to those questions as part of this document.

For the purposes of this memo, please use the following ballot definitions:

- 'A' Ballot = Federal-only ballot that only lists the contests and candidates for the CD 7 partisan primary.
- 'B' Ballot = Full ballot that lists the CD 7 partisan primary contests, the statewide Justice of the Supreme Court primary and any other relevant county or municipal contests that have primaries.

Frequently Asked Questions

Q: When were 'B' Ballots, or full ballots, available?

A: County clerks were required to provide full ballots to municipal clerks by January 27, 2020 for the Spring Primary.

Q: If 'A' ballots were already sent to voters with absentee requests on file earlier in January, do I need to also send 'B' ballots to those voters once they are provided by the county clerk?

A: Yes, all voters should also be sent a 'B' ballot once those have been provided to you. The only exception is any permanent overseas voters. They are only eligible to receive an 'A' ballot for the Spring Primary.

Q: When sending the follow up 'B' ballots should I also include an explanation to the voter that tells them why they are receiving another ballot?

A: Yes, you should include a brief explanation as to why the additional ballot was sent. The explanation should inform the voter that they can vote and return the 'B' ballot as a replacement for the initial ballot that only listed the primary in CD 7.

Wisconsin Elections Commissioners

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Administrator
Meagan Wolfe

Q: If someone voted in-person absentee in my office prior to us knowing if there would be a statewide Spring Primary, am I required to contact them to inform them that there are now more contests on the ballot?

A: We recommend that you contact these voters and let them know of the opportunity to vote a full, or 'B', ballot. You can reach out to them using any contact information you have for them as part of their voter record (i.e. phone, email or mail).

Q: What happens if a voter returns both ballots?

A: You will instruct your poll workers to count the full, or 'B', ballot. The 'A' ballot will be sent to the polls to be rejected and should be kept and stored with your election materials.

Q: Can poll workers transfer votes from an 'A' ballot to a 'B' ballot if the voter returned both ballots but left the CD 7 contest blank on their 'B' Ballot while voting it on their 'A' ballot?

A: If a voter casts a vote in the CD 7 primary on the 'A' ballot but did not vote in that same contest on the 'B' ballot, poll workers may not transfer that vote from the 'A' ballot onto the 'B' ballot. Election inspectors will not open the 'A' ballot if the 'B' ballot is returned.

Q: What happens if a voter who only voted an absentee 'A' ballot either in-person or by mail comes into their polling place on Election Day and wants to vote a full ballot?

A: The voter should be allowed to receive and vote a full ballot on Election Day. The voter should have a watermark in the poll book that indicates they were issued an absentee ballot, but we recommend marking the poll book to indicate these voters only received an 'A' ballot and are still eligible for the full, or 'B' ballot.

Q: Does this mean we should not process the 'A' ballots until after the polls close on Election Day?

A: Yes, the 'A' ballots should be held until after 8:00 PM in the event one of these voters shows up and wants to vote a full ballot or the 'B' ballot is returned by mail before the polls close.

Q: If I am a clerk in CD 7, can I offer in-person absentee voting with only 'A' ballots (CD 7 primary-only) until the 'B' ballots (full ballot) are ready?

A: Yes, there is no restriction on offering in person absentee hours with only 'A' ballots until the full ballots are ready. You should explain the situation to each voter and let them know they are still eligible to vote a 'B' ballot once it is available. If the voter wishes to request a full ballot for the Spring Primary, you should obtain a written request. In addition to other forms of a written request, you may create a form that in-person absentee voters can sign to request a Spring Primary ballot. Also, if the voter has submitted a calendar-year request or a request for the Spring Primary ballot, you must send the 'B' ballot even if the voter has voted the 'A' ballot in the meantime, because the "A" ballot is for the CD 7 Primary, not the Spring Primary.

Thank you for your attention to these issues. If you have further questions or require assistance please contact our Help Desk at elections@wi.gov or by phone at (608) 261-2028.