



Wisconsin Elections Commission

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DATE: March 13, 2020

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

FROM: Meagan Wolfe
Administrator

SUBJECT: COVID-19 Frequently Asked Questions (FAQ's) and Guidance on Procedural Changes for Care Facility Absentee Voting and Polling Place Relocation

A. Background. Governor Evers issued Executive Order #72 on March 12, 2020 proclaiming that a public health emergency exists in the State of Wisconsin as a result of the COVID-19 Coronavirus. The Commission held a special meeting on March 12, 2020 and directed that the Special Voting Deputy process to serve residents in care facilities shall not be used for the upcoming Spring Election/Presidential Preference Primary and the Special Election in the 7th Congressional District, and that clerks should instead transmit absentee ballot to those residents by mail. The Commission also determined that the municipal clerk or the executive director of a municipal election commission may relocate polling places located in care facilities to other facilities as determined by the Department of Health Services or local health officials without obtaining prior approval of the local governing body or municipal elections commission.

The Commission also directed staff to provide additional direction to clerks regarding the process changes associated with the Commission's March 12, 2020 directives.

B. Frequently Asked Questions and Commission Staff Guidance

1. What can clerks tell voters about preparations for the April election related to COVID-19?

- The Wisconsin Elections Commission members discussed COVID-19 at their meetings on February 27 and March 12, and since then WEC staff has held meetings to discuss contingency planning for COVID-19. We have also joined multiple calls with the Centers for Disease Control (CDC) and Homeland Security to be sure we are up to date on the most current guidance.
- At this point, the WEC is providing clerks with election-specific guidance from the CDC, which considers the risk to the general public to be low and which emphasizes preventive measures. We provided that guidance to local election officials on March 5, 2020 in this memorandum: <https://elections.wi.gov/node/6703>. We will also provide updated information as it becomes available in the upcoming days.

Wisconsin Elections Commissioners

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- We are continuing to monitor the situation and will keep local election officials up to date when there are any other developments or recommendations. We are preparing a series of webinars on Monday, March 16 for local election officials focusing on contingency planning for public health issues.
- For the last several years, the WEC has been developing state elections contingency plans for serving clerks and voters in the event of natural disasters or other disruptions in services. We have also been requiring local election officials to develop their own contingency plans. Many of the practices outlined in these contingency plans, such as relocating polling places, shortage of election inspectors, etc., are transferable to a public health situation.
- All voters are encouraged to participate in the Spring Election either at the polls or by voting an absentee ballot in person or via mail. Local clerks are monitoring guidance from federal and state health officials regarding the status of COVID-19 exposure in our communities and developing contingency plans for the election. Voters who are sick should avoid attending public events and consider requesting an absentee ballot from the municipal clerk. The public is also encouraged to consider contacting their municipal clerk to offer to serve as an election inspector at the polls in the event that there is a shortage of available inspectors.

2. What should clerks tell the press about the April election and COVID-19?

Clerks should communicate to the media that they are implementing guidance from federal and state health and election officials, and communicate any alterations in their normal procedures that are being implemented due to COVID-19 precautions, such as the elimination of voting in nursing homes and adult-care facilities as well as changes in any polling places. Clerks should monitor WEC communications and its webpage dedicated to COVID-19 information and updates.

3. How will voting be conducted in nursing homes and care facilities normally served by Special Voting Deputies.?

Under the Governor's emergency order and directives of the Department of Health Services, voting with special voting deputies is prohibited for the Spring Election. Clerks should mail absentee ballots to voters in those facilities with an absentee ballot request on file. Special Voting Deputies and observers will not visit care facilities.

At its meeting of March 12, 2020, the Wisconsin Elections Commission passed the following motion:

In light of Executive Order #72 and directives of the Department of Health Services, the Commission finds that Special Voting Deputies are "non-essential" individuals who are not permitted to enter nursing homes and other care facilities without completing a screening process that is not feasible to implement prior to the Spring Election and Presidential Primary. For that election and the May 12, 2020 Special Election in the 7th Congressional District, the Commission directs that municipalities shall not use the Special Voting Deputy process to serve residents in care facilities and instead shall transmit absentee ballots to those voters by mail.

4. Must absentee ballots sent to care facilities be transmitted by the 21-day deadline of March 17, 2020?

Wisconsin Statutes require that absentee ballots be transmitted to voters with a request on file at least 21 days before an election. Clerks should make their best efforts to comply with this requirement. Given that SVD voting was eliminated less than a week before that deadline, the WEC recognizes that full compliance with this requirement may be impossible.

5. Can clerks hand deliver absentee ballots to care facilities instead of mailing them?

WEC believes it is permissible for absentee ballots to be hand delivered along with the required certificate envelopes. In that case, the WEC recommends that clerks contact the facility in advance to determine whether the ballots can be delivered in person and confirming the delivery in an email. Absentee ballots must be addressed to individual electors.

6. What, if any, guidance or suggestions do we provide regarding voters at facilities obtaining assistance in completing their ballots? Should clerks proactively request assistance from facility staff?

As with other absentee electors, residents of care facilities may obtain assistance from any individual excluding a candidate, their employer or labor union representative. Due to the directive of the Department of Health Services, there will be a limited pool of potential assistors available to residents of care facilities, including facility staff and family members.

7. How should clerks handle electors in care facilities that need to register or update their registration?

This is an issue which will benefit from greater communication with facility staff to ensure that residents are aware of the deadline for open registration. The open registration deadline remains the same. If a resident has moved from their voting residence within the same municipality, the clerk may update their registration under Wis. Stat. § 6.50(3). The WEC is providing a template letter which clerks can use as a basis for communicating with care facility staff.

8. What about voters in care facilities who do not have an absentee ballot request on file who would have been able to request a ballot from SVD's?

This is another area that would benefit from increased communication with facility staff to ensure residents are aware of the deadline to request an absentee ballot, which is the Thursday before the election. The WEC is providing a template letter which clerks can use as a basis for communicating with care facility staff.

9. How do residents in care facilities, who are not indefinitely confined electors, comply with the photo identification requirement?

Residents who are not indefinitely confined electors may submit a copy of a valid photo identification or may complete the EL-122sp certificate including the signature of facility staff certifying that the voter resides in the facility.

10. How can clerks better prepare for the possible absence of election inspectors?

Consider recruiting extra election inspectors to provide some reserve capacity. Consult with municipal leadership to obtain the assistance of paid staff if available. Consult with your county government to see if it can assist. Consult with local businesses and civic organizations within the municipality or county.

Under Wis. Stat. § 7.33(3) and (6), all non-governmental employers are required to permit employees to serve as an election official without loss of fringe benefits or seniority privileges and may not impose any other penalty on the employee except the employer is not required to pay wages to the employee for the time worked as an election official. The employer must grant any employee who is appointed to

serve as an election inspector a leave of absence for the entire 24-hour period of election day if the employee provides at least 7 days' notice of the leave.

Clerks also have the statutory authority to make emergency poll worker appointments under Wis. Stat. § 7.30(2)(b) and should do so if they need additional election inspectors. Contact the WEC to let us know if you are experiencing significant poll worker shortages so we can assist with possible recruitment efforts.

11. Could county, municipal or state employees be assigned to work as election inspectors in the event there are shortages?

Yes, this is a great solution in the event there is an election inspector shortage. Election inspectors only need to be residents of the county in which they serve and receive some training prior to election day. A local governmental unit may permit its employees to serve as election officials without loss of fringe benefits or seniority privileges earned for scheduled work hours while they work as an inspector and without loss of pay and without any other penalty. A local government employee who serves as a paid election inspector must certify to their employer the amount of compensation received as an election inspector and that amount is deducted by the employer from their pay. Wis. Stat. § 7.33(4) and (5). Alternatively, the employee may decline to be paid as an election inspector and not have that amount deducted from their regular pay.

12. Could the county serve as a clearinghouse of available election inspectors in case some municipalities have shortages?

Yes, counties can coordinate a reserve pool of election inspectors for their municipalities, if needed.

13. What if polling places are unavailable due to quarantine or other issues? We are past the 30-day deadline for changing polling places.

Based upon the emergency order of the Governor and directives of the Department of Health Services, the Wisconsin Elections Commission determined that, for the Spring Election as well as the May 12th Special Election, municipal clerks may move polling places within 30 days of the election without obtaining approval of the local governing body. Clerks may certainly seek such approval if time permits. Moving a polling place from a facility with vulnerable populations is recommended by both the WEC and the Wisconsin Department of Health Services, which has issued guidance that only essential personnel are allowed to have access to nursing homes and care facilities. Clerks should consult with their governing bodies regarding these changes, if possible, but in some cases there may not be sufficient time for the governing body to meet to accommodate these changes and notify the public ahead of election day.

Clerks must inform impacted voters regarding any changes to their polling place. Options for contact with these voters include a direct mailing, press release and/or public information campaign. The WEC recommends that clerks identify and confirm alternate polling places and incorporate them in your Election Day Contingency Plan. Educate election inspectors about the contingency plan and prepare ways to communicate a polling place change in advance. What would you do if a polling place was damaged by a flood, fire or tornado, or unavailable for other reasons?

14. Can a clerk encourage voters with weakened immune systems to request absentee ballots by mail?

A clerk can encourage any voter who may have a weakened immune system to consider voting absentee. Clerks can also encourage all voters to cast an absentee ballot ahead of election day but should also

consider if they have the capacity to handle a potential increase in the volume of absentee ballots. Various organizations and public officials are encouraging the use of absentee voting.

15. Can we keep election observers at least six feet away from the voting and registration tables as recommended by the CDC?

Yes, under Wis. Stat. § 7.41((2)), the observation area must be within 3 to 8 feet of the table where voters are announcing their name and address or where voters are registering on election day, so it is appropriate to designate an observer area or multiple observer areas that adhere to those CDC guidelines.

16. I was thinking about posting a sign outside the entrance of our polling place which says something to the effect of "If you are feeling ill, and have cold or flu like symptoms, please ring the bell or call (town hall / polling place #) to notify an election inspector for assistance. Then they could curbside vote versus entering the polling place. Would this be acceptable?

Yes, the WEC believes the curbside process is applicable and could be used in these situations.

17. Can voters bring their own marking pens with them to vote on election day?

Yes, with some exceptions. Most marking pens will work well with hand-marked paper ballots, with the exception of gel pens and "sharpie"-type felt tip pens. Gel ink can smear if not dry and felt tips can bleed through the ballot.

Ball-point pens are acceptable to use when marking a ballot that will be inserted into the optical scan tabulator. Red ink should be avoided as it is difficult for some older scanners to read votes marked in red, but more modern equipment should not have problems reading votes marked in red.

18. Are there additional concerns for election inspectors opening and processing absentee ballots on election day?

The CDC states that absentee ballots and absentee ballot envelopes are an unlikely source of transmission. Election inspectors may use letter openers to open ballot envelopes which will lessen any potential contact with the adhesive area of the envelope. All election inspectors should frequently wash their hands with soap and water on election day or regularly use an alcohol-based hand sanitizer and avoid touching their face when possible.

19. How often should we wipe down touchscreen interfaces on voting equipment and e-poll books?

The EAC has organized responses from major voting equipment manufacturers for recommendations on cleaning specific products that can be found at <https://www.eac.gov/election-officials/coronavirus-covid-19-resources>.

Voting equipment does not need to be cleaned after every voter but should be done once an hour throughout the day. The WEC recommends that every voter use wash their hands with soap and water or use an alcohol-based hand sanitizer immediately after finishing the voting process at the polling place.

20. What about other surfaces used by voters on election day, such as poll book tables, voter registration areas, pens, door handles, etc.?

These surfaces should also be wiped down once an hour throughout election day with disinfectant wipes. The WEC recommends that every voter use wash their hands with soap and water or use an alcohol-based hand sanitizer immediately after finishing the voting process at the polling place.

21. Should election inspectors be provided with face masks?

According to the CDC, facemasks should only be worn by people who show symptoms of COVID-19 to help prevent the spread of the disease to others.

22. Will the WEC provide cleaning supplies to polling places?

The WEC recommends that clerks contact their county health departments for information about cleaning supplies and personal protective equipment (PPE).

23. Is there a health crisis plan in for municipalities the WEC can share?

The WEC Learning Center has an Election Day Contingency Plan template available for use. The WEC will also host multiple contingency planning webinars on March 16 to help clerks prepare or update their contingency plans.

C. Additional Information

The situation concerning COVID-19 and the upcoming elections is fluid and quickly evolving, so guidance changes daily. The WEC is working with federal and state public health officials to determine the most effective guidance to provide to local election officials dealing with this crisis. We will provide additional information to local election officials as it is available.

If you have questions, please contact the WEC Help Desk at (608) 261-2028, or elections@wi.gov.