



Wisconsin Elections Commission

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DATE: September 14, 2022

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

FROM: Wisconsin Elections Commission

SUBJECT: Temporary Injunction on WEC Guidance re Missing Absentee Witness Address
(*White v. Wisconsin Elections Commission*, 22-CV-1008)

In the above referenced matter, on September 7, 2022, the Honorable Judge Michael J. Aprahamian of the Waukesha County Circuit Court issued a Temporary Injunction declaring two memoranda issued by the Wisconsin Elections Commission (WEC) invalid and contrary to law. The Temporary Injunction is attached to this memorandum. The Temporary Injunction prohibits the WEC from disseminating or displaying the following memoranda:

- 1) The October 18, 2016, memorandum entitled “AMENDED: Missing or Insufficient Witness Address on Certificate Envelopes”
- 2) The October 19, 2020, memorandum entitled, “Spoiling Absentee Ballot Guidance”

The Court further prohibited WEC from providing any advice or guidance that municipal clerks or other local election officials have the duty or ability to modify or add information to absentee ballot certifications. The Court additionally prohibited WEC from giving any advice or guidance contrary to the provision in Wis. Stat. § 6.87 that, if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot by the applicable deadline. *See* Wis. Stat. § 6.87(9).

Pursuant to the Temporary Injunction of September 7, 2022, this communication is hereby issued to give notice that the WEC memoranda of October 18, 2016 and October 19, 2020, have been declared invalid and contrary to law and have been withdrawn.

In a hearing on September 13, 2022, the Court clarified that it had not ruled on what constitutes a witness address or a missing witness address, and it had not overturned the existing WEC definition of address contained in the now-invalidated memoranda—namely, *street number, street name, and name of municipality*. The Court emphasized that its ruling was limited to invalidating any WEC guidance directing clerks to themselves add address information to witness certifications.

Wisconsin Elections Commissioners

Don M. Millis, chair | Marge Bostelmann | Julie M. Glancey | Ann S. Jacobs | Robert Spindell | Mark L. Thomsen

Administrator
Meagan Wolfe

Please review this notice and the attached Temporary Injunction with your municipal attorney to determine if any changes to your procedures are required.

Please contact the WEC Help Desk at elections@wi.gov or by phone at (608) 261-2028 with any questions you may have. Thank you for your prompt attention to this matter.