



Wisconsin Elections Commission

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DATE: August 4, 2022

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

FROM: WEC Staff

SUBJECT: Absentee Ballot Return Considerations for Wisconsin Clerks and Municipal Attorneys

Wisconsin Elections Commission (“Commission”) staff have witnessed a recent influx in the volume of questions and challenges pertaining to whether or not a disabled Wisconsin voter may request assistance with the return or mailing of their absentee ballot, particularly when the process is viewed under the lens of Wis. Stat. § 6.87(4)(b)1.

At its August 3, 2022, special meeting, the Commission directed staff to send a clerk communication highlighting the provisions of law that have been raised as questions or challenges. This communication is not a statement on the applicability or viability of such questions and challenges. Rather, it is meant as a noncomprehensive list of legal considerations that clerks may wish to discuss with counsel as the 2022 election cycles are already underway and continue into August and November. Questions should be directed to local counsel. Please consider the following as possible talking points for your municipal attorneys:

- Section 208 of the Voting Rights Act (52 U.S.C. § 10508 – Requests for “Voting Assistance for Blind, Disabled or Illiterate Persons”)
- Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131, et seq.)
- Section 504 of the Rehabilitation Act (29 U.S.C. § 794)
- First and Fourteenth Amendments, U.S. Const. amend. I, XIV
- Wisconsin Statute § 7.15(14) (“Voting Accommodations for Individuals with Disabilities”)

Thank you for your time and consideration on this matter.

Wisconsin Elections Commissioners

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