



Wisconsin Elections Commission

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DATE: May 10, 2021 (Updated June 17, 2021)

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

FROM: Meagan Wolfe Administrator Richard Rydecki Assistant Administrator

SUBJECT: Indefinitely Confined Absentee Ballot Requests Clean-Up Process

Under Wisconsin law, a voter can request an absentee ballot as an indefinitely confined voter due to age, illness, infirmity, or disability. Declaring oneself indefinitely confined is an individual determination that only an individual elector can make and can only be made for the reasons outlined in the statute (age, illness, infirmity, or disability). This memo is in response to questions we have received from clerks regarding their indefinitely confined voter list and procedures for contacting these voters – both voters that did not return a ballot, and those voters who may no longer be indefinitely confined under the statute. State law requires that clerks contact voters on the indefinitely confined list who did not vote their April 6, 2021 by-mail absentee ballot, but WEC has also developed resources for clerks to contact voters who may no longer be indefinitely confined to determine if their status has changed.

1. Indefinitely confined voters who did not return their by-mail absentee ballot for the April election

Any indefinitely confined voter who did not return their absentee ballot for the April 6, 2021 Spring Election must be sent the **30-day letter** that is downloadable through WisVote (Wis. Stat. § 6.86(2)(b)). This process is required by state statute. This letter allows the voter to request renewal of their absentee request within 30 days. If they do not respond to the letter, their absentee ballot request will be deactivated. You cannot send this letter if the voter returned their April ballot. However, the Commission posted a clerk communication on its website dated January 8, 2021 that details the processes associated with proactive outreach to indefinitely confined voters who did cast and return a ballot and are not wholly governed by the requirements of Wis. Stat. § 6.86(2)(b). (<https://elections.wi.gov/node/3009>) If you rely on the county or another jurisdiction to complete your data entry work in WisVote, you will have to provide them with information about any requests that are required to be inactivated.

2. Voters who may no longer be indefinitely confined

In early 2021, the WEC created an optional “Indefinitely Confined Clean-Up Process” that allowed clerks to send out an optional letter to voters to ask if they still met the statutory criteria to remain on the indefinitely confined absentee list. This letter could be sent to all voters on the indefinitely

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confined list regardless of whether they cast and returned a ballot for the last election. A non-response to the letter, however, means that the voter’s absentee request remains active, unless the clerk independently receives reliable information that the individual no longer qualifies as indefinitely confined. Clerks could choose to send this letter out to get written reliable confirmation of the voter’s status. This option is still available for clerks to use to clean up their indefinitely confined voter list prior to the 2022 election cycle.

The two letters are described below:

Indefinitely Confined 30-day Letter (available in WisVote)	Optional Indefinitely Confined Clean-Up Letter (available on the memo here)
<ul style="list-style-type: none">• Statutorily Required under Wis. Stat. § 6.86(2)(b).• Send to indefinitely confined voters who did not cast and return their by-mail April ballot.• Voter can use this letter to renew their indefinitely confined request.• Clerk is required to send this letter before deactivating an indefinitely confined absentee request.• Voter must respond to letter, otherwise absentee request is deactivated.	<ul style="list-style-type: none">• Optional.• Send to all indefinitely confined voters, even if they returned an April ballot.• Voter can use this letter to confirm their status or change their request to a regular absentee.• Voter is not required to respond to the letter. Non-response means that the voter remains on the absentee request list, unless the clerk receives reliable information to the contrary.

What constitutes reliable information that a voter is no longer indefinitely confined?

Many clerks have asked if they can deactivate indefinitely confined absentee requests if they have reliable information that the voter is no longer indefinitely confined. The Wisconsin Elections Commission recommends getting something in writing from the voter that they are no longer indefinitely confined. Seeing a voter in person out in public does not always equate to reliable information, as many individuals may have self-identified as indefinitely confined due to invisible or intermittent illnesses or disabilities. So, a voter coming in to return their ballot in-person does not necessarily mean you can automatically remove an indefinitely confined voter’s request. Clerks should consult with their local counsel to determine whether reliable information has been received in accordance with Wis. Stat. § 6.86(2)(b). Voters have a right to privacy about their medical and disability status, so you may not request more information or documentation regarding a voter’s indefinitely confined status.

What constitutes “not returning” a ballot?

If the voter did not return their April by-mail absentee ballot, the clerk is required to send out the indefinitely confined 30-day letter. Not returning their absentee ballot means that the voter did not mail it back or drop it off at the clerk’s office, drop box, or polling place. If the voter voted in-person during in-person absentee voting or at the polls on election day, they did not return their by-mail absentee ballot. The voter will have 30 days to respond to the letter to confirm their status, and after 30 days their request will be deactivated. The voter may submit a new absentee ballot request

at any time as an indefinitely confined voter if they meet the statutory criteria or a regular absentee voter.

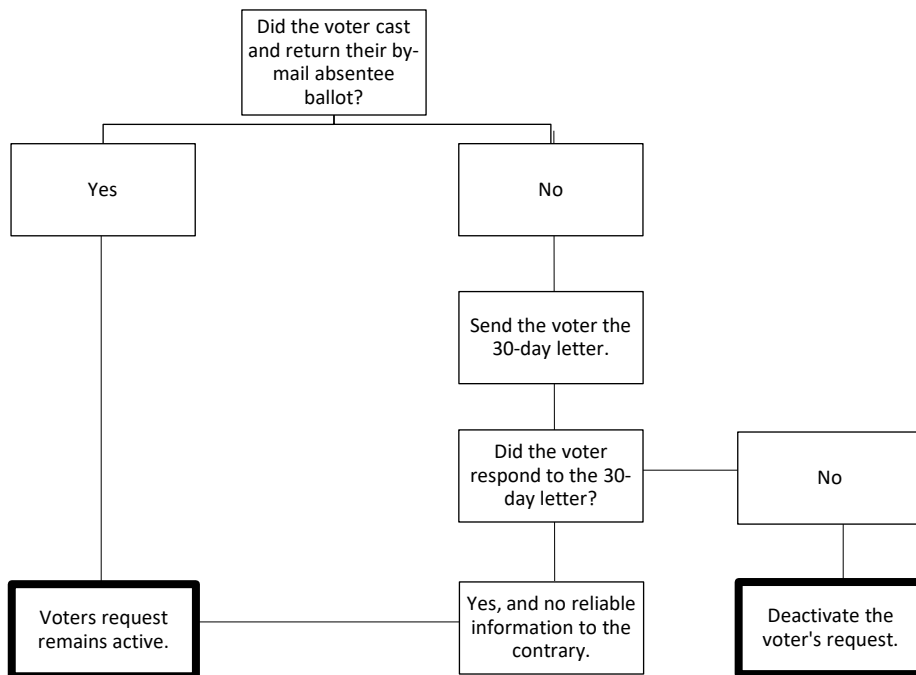
Where do I get the 30-day letter?

The 30-day letter can be generated individually on WisVote. There is a document explaining how to download the 30-day letter and properly deactivate an indefinitely confined absentee request on The Learning Center under Absentee Voting (3.7 Manage Absentee Ballots pages 6-9). You can access the document here: <https://electiontraining.wi.gov/course/view.php?id=88#section-6>.

Multiple letters cannot be downloaded from WisVote at once, so if creating each letter individually is not an option, you can create your own mail merge process. We have created a mail-merge version of the 30-day letter and instructions for how to download the indefinitely confined voters that did not return their April ballot and attached it to this memo. The 30-day letter is also available at <https://elections.wi.gov/wec-form/notification-indefinitely-confined-absentee-request-cancellation-el-145>.

The letter has a portion for the voter to sign and return back to you to request continuation of their absentee request. You are not required to provide return postage, but it is suggested that you leave your contact information, including email address, so the voter can contact you.

Please see the flowchart on the next page to decide if it is appropriate to send the 30-day letter to the voter.



Please reach out to the Wisconsin Elections with any questions by emailing election@wi.gov or calling (608)261-2028.