

NOTICE OF OPEN MEETING

Wisconsin Elections Commission

Special Meeting

Wednesday, January 24, 2024

12:00 P.M.

This meeting is being held via video teleconference only. Members of the public and media may attend online or by telephone. Please visit <https://elections.wi.gov/event/special-meeting-1242024> to view materials for the meeting. All public participants' phones/microphones will be muted during the meeting. Members of the public wishing to communicate to the Commissioners should email electioncomments@wi.gov with "Message to Commissioners" in the subject line.

Zoom information for the meeting:

When: Jan 24, 2024, 12:00 PM Central Time (US and Canada)

Topic: Special Meeting of the Wisconsin Elections Commission

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/81702914642?pwd=sszK5LP1vROs5dYFcb-WLD4fYwLPzw.gRCSuUzi7yn2vmnJ>

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NOTICE OF OPEN MEETING

OPEN SESSION AGENDA

- A. Call to Order**
- B. Administrator’s Report of Appropriate Meeting Notice**
- C. Approval of Previous Meeting Minutes**
 - 1. December 19, 2023** **1**
 - 2. January 9, 2024** **18**
- D. Discussion of Meeting Calendar and Possible Scheduling of Future Commission Meetings**
- E. Discussion, Review, and Possible Action Pertaining to the Following Commission Manuals for County/Municipal Clerks:**
 - Legal Memo** **21**
 - Election Administration** **33**
 - Election Day** **272**
 - Memo -Recount** **426**
 - Recount Procedures** **428**
- F. Adjourn**



Wisconsin Elections Commission

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Wisconsin Elections Commission
Special Teleconference Meeting
201 W. Washington Avenue, Second Floor
Madison, Wisconsin
11:00 a.m. December 19, 2023

Open Session Minutes

Present: Commissioner Marge Bostelmann, Commissioner Ann Jacobs, Commissioner Don M. Millis, Commissioner Carrie Riepl, Commissioner Robert Spindell Jr., and Commissioner Mark Thomsen, all by teleconference.

Staff present: Sharrie Hauge, Brandon Hunzicker, Robert Kehoe, Anna Langdon, Angela O'Brien Sharpe, Riley Vetterkind, Riley Willman, and Meagan Wolfe, all by teleconference.

A. Call to Order

Commission Chair Millis called the meeting to order at 11:00 a.m. and called the roll. All Commissioners were present.

B. Administrator's Report of Appropriate Meeting Notice

Administrator Meagan Wolfe informed the Commission that the meeting was noticed in accordance with Wisconsin's open meetings laws.

C. Approval of Previous Meeting Minutes **a. November 2, 2023**

MOTION: To approve the November 2, 2023, open session meeting minutes.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

D. Discussion and Appointment of Commission Secretary

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

Chair Millis noted that this was not an appointment of the Administrator or any executive or any position in the staff, but rather the member of the Commission who acts as secretary and signs the minutes.

MOTION: Nominate Commissioner Riepl for Secretary.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

E. Discussion, Review, and Possible Action Pertaining to Ballot Templates for Spring 2024 Primary and Election, and Communication of Preliminary Ballot Order to County Clerks

Administrator Wolfe presented the agenda item. She noted that the Commission would first vote on approving the ballot design, then vote on authorizing the staff to share preliminary ballot order with county clerks as soon as it is drawn.

MOTION: The Commission approves the ballot design presented by staff and directs staff to utilize the ballot design for the 2024 Spring Primary and Spring Election.

Moved by Commissioner Spindell. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

MOTION: The Commission authorize the staff to share preliminary ballot order with county clerks as soon as it is drawn. The staff would also make clear in this notification that ballot order and candidates are not final, or ready to print, until after the Commission has made their final ballot access decisions.

Moved by Commissioner Jacobs. Seconded by Commissioner Riepl.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

F. Discussion, Review, and Possible Action Pertaining to the Uniform Instructions for Wisconsin Absentee Voters

Deputy Administrator Robert Kehoe presented the agenda item and detailed the results of staff's usability testing.

MOTION: The Wisconsin Elections Commission approves and prescribes the Revised Uniform Instructions, as shown in Appendix F.1, F.2, and F.3, for all future elections. Staff are directed to update all Commission resources with this guidance and to notify clerks of this change.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

G. Review and Potential Action on the Election Observer Draft Administrative Rule¹

Staff Attorney Hunzicker reviewed updates to the draft rule before the Commission. He also provided an overview of next steps.

Chair Millis suggested that the second sentence of EL 4.02(2), "An individual authorized by the Commission to conduct any election related activities is an election official in this chapter," be moved to EL 4.02(9). Attorney Hunzicker stated he would move it.

Chair Millis suggested that the language struck on page 55 of the Commission's materials, "All questions shall be answered by the designated election official in a timely manner," be replaced with "The designated election official, or the person designated by the designated election official, to whom an election observer may direct a question, shall make a good faith effort to timely respond to the question."

Commissioner Jacobs disagreed with this suggestion. Commissioner Spindell suggested it be incorporated into training.

Commissioner Spindell noted that the draft rule allowed designated election officials to limit the number of observers, remove an observer from the polling place, and call law enforcement and requested that these duties be limited to clerks and chief inspectors. Attorney Hunzicker noted that while § 7.41 specifies chief inspectors and clerks to do these things, § 7.37(2) provides an identical ability to each and every election inspector.

Chair Millis asked if it made sense for EL 4.03(14)(b) to be updated to add, "consistent with § 7.37(2)" after "If the offending observer who is ordered to depart under par. (a) declines or otherwise fails to comply with the designated election official's order to depart, the official may summon law enforcement to remove the offending observer." Attorney Hunzicker answered yes.

Commissioner Thomsen stated he had no problem with the change.

¹ This section may be clarified prior to the February 8, 2024, Commission meeting.

Attorney Hunzicker noted that EL 4.03(14)(a) contained, “If the designated election official is a person other than the Chief Inspector or municipal clerk, the designated election official shall notify the Chief Inspector or municipal clerk,” and that step would need to occur before law enforcement would be summoned. Commissioner Spindell advised that that section be emphasized in training.

EL 4.03(4)

Attorney Hunzicker provided an overview of the section and staff’s recommendation to delete the last sentence in EL 4.03(4): “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location” and instead incorporate it – replacing the “shall” with “should” – into guidance after the rule is completed.

Chair Millis noted that in their memo, staff contemplated replacing “shall” with “should.” He clarified with Attorney Hunzicker that “should” would take on a more aspirational meaning, if used.

MOTION: Delete the last sentence in EL 4.03(4) of the proposed rule consistent with Wis. Stat. § 227.11(2)(a)3: “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location.”

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Roll call vote:	Bostelmann:	No	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No
	Millis:	No	Thomsen:	Aye

Motion failed 3-3.

Chair Millis suggested leaving the language in but replacing “shall” with “should.”

Commissioner Thomsen stated that it was not up to the Commission to express a preference for 3 feet in the rule.

Chair Millis suggested a motion to delete the last sentence of EL 4.03(4) and direct staff to incorporate the concept into future guidance and training. Commissioner Jacobs and Commissioner Thomsen disagreed with his suggestion.

Commissioner Spindell suggested encouraging chief inspectors to put the observation area as close to 3 feet away as possible, “following statute.” Commissioner Thomsen disagreed with this.

MOTION: Strike the last sentence of EL 4.03(4): “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location.”

Moved by Commissioner Jacobs. Seconded by Commissioner Thomsen.

Commissioner Spindell stated that he did not recognize the last sentence as strictly against the statutes, but rather advice within the administrative rule.

Roll call vote: Bostelmann: No Riepl: Aye
 Jacobs: Aye Spindell: No
 Millis: No Thomsen: Aye

Motion failed 3-3.

Chair Millis stated that the Commission would revisit 4.03(4) later.

EL 4.05(2)

Attorney Hunzicker presented the language options for EL 4.05(2) and reviewed staff's analysis of the word "cast" in statute at Commissioner Spindell's request.

Commissioner Spindell sought to clarify whether observers would be allowed to observe clerks accepting more than one absentee ballot for valid reasons in the foyer of a clerk's office. Attorney Hunzicker clarified that EL 4.05(2)(a) would explicitly allow observation of any return of an absentee ballot either by mail or in-person absentee voting. Chair Millis clarified that EL 4.05(2)(a) was consistent with what Commissioner Spindell articulated.

Commissioner Bostelmann questioned whether (a) and (b) were adding more information than the statute allows, or if that was the question at hand. Attorney Hunzicker answered that both options would be the Commission's attempt to interpret based on the difficulty of the word "cast," and that the language on page 42 of the Commission's materials just quoted statute without offering a definition of "cast."

MOTION: Adopt for EL 4.05(2) the language on page 42 of the Commission's materials: "An observer shall be permitted to observe in the office of any municipal clerk whose office is located in a public building or at an alternate site under s 6.855, Stats., during the hours that absentee ballots may be cast in those observable locations."

Moved by Commissioner Thomsen. Seconded by Commissioner Riepl.

Commissioner Bostelmann expressed a preference to pinpoint what observers could and could not observe.

Chair Millis expressed a preference for (a).

Commissioner Jacobs expressed a preference for (b) but stated she would vote for Commissioner Thomsen's motion.

Chair Millis agreed with Commissioner Jacobs that the postal service returning ballots should not be observable and reiterated a preference for (a). He agreed with Commissioner Spindell that observers should be allowed where members of the public are already allowed.

Commissioner Thomsen expressed disagreement with (a).

Commissioner Spindell suggested putting an amount of days when observation of absentee ballot return could take place.

Roll call vote: Bostelmann: No Riepl: Aye
 Jacobs: Aye Spindell: No
 Millis: No Thomsen: Aye

Motion failed 3-3.

Commissioner Spindell suggested the rule language be clarified to eliminate observation of the delivery of mail and to add a specific number of days when observation could take place. Commissioner Jacobs disagreed with the suggestion to add a number of days.

Chair Millis reiterated his preference to exclude return of absentee ballots by the postal service from observation.

MOTION: Adopt for EL 4.05(2): “An observer shall be permitted to observe the in-person issuing and voting of absentee ballots under s. 6.86(1)(b), Stats., as well as the return of individually voted absentee ballots during the hours such activities may occur at a municipal clerk’s office whose office is located in a public building, or at an alternate absentee ballot site under s. 6.855, Stats.”

Moved by Commissioner Bostelmann. Seconded by Chair Millis.

FRIENDLY AMENDMENT: Add, “This does not apply to ballots returned by the postal service.”

Proposed by Chair Millis. Agreed to by Commissioner Bostelmann.

Commissioner Riepl asked if the observation period would include the Monday before Election Day. Attorney Hunzicker responded that it would. Chair Millis asked if there was any way to carve out the Monday beforehand, and Attorney Hunzicker responded that Monday and Election Day would be included in (a).

Chair Millis suggested going with (b) but clarifying that the return of voted by mail absentee ballots to the municipal clerk’s office or alternate site by the US Postal Service would not be covered by the chapter unless it occurs at the same location and same hours. He clarified with Attorney Hunzicker that this would alleviate the Monday before Election Day.

Commissioner Jacobs objected to how many days the language in the motion would encompass and stated that Commissioner Thomsen’s motion was the right one.

Commissioner Spindell reiterated his recommendation to add a specific number of days when observation could take place.

FRIENDLY AMENDMENT: Adopt for EL 4.05(2): “An observer shall be permitted to observe the in-person issuing and voting of absentee ballots under s. 6.86(1)(b), Stats., during the hours such activities may occur at a municipal clerk’s office whose office is located in a public building, or at an alternate absentee ballot site under s. 6.855, Stats. The return of voted by-mail absentee ballots to a municipal clerk’s office or alternate site by the US Postal Service is not covered by this chapter unless it occurs in the same location and during the same hours as the issuing and voting of absentee ballots.”

Proposed by Chair Millis. Agreed to by Commissioner Bostelmann.

Chair Millis clarified with Attorney Hunzicker that this would limit the observable days to the in person absentee voting period. Commissioner Spindell clarified that the number of days would depend on when a municipality chose to allow in-person absentee voting.

FINAL MOTION: Adopt: “An observer shall be permitted to observe the in-person issuing and voting of absentee ballots under s. 6.86(1)(b), Stats., during the hours such activities may occur at a municipal clerk’s office whose office is located in a public building, or at an alternate absentee ballot site under s. 6.855, Stats. The return of voted by-mail absentee ballots to a municipal clerk’s office or alternate site by the US Postal Service is not covered by this chapter unless it occurs in the same location and during the same hours as the issuing and voting of absentee ballots.”

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	No

Motion carried 5-1.

EL 4.05(2)(c)

Attorney Hunzicker presented staff’s recommended language.

Commissioners sought to clarify the logistics of the proposed rule language.

Chair Millis stated that the Commission would revisit 4.05(2)c later.

EL 4.05(4)(d) and (e)

Attorney Hunzicker presented the language options for EL 4.05(4)(d) and (e).

Commissioner Spindell suggested there be explicit instructions to Special Voting Deputies outlining how to help a voter vote a ballot without indicating to observers who the voter voted for.

Chair Millis recommended the proposed sub-section read: “Special Voting Deputies may not permit an observer or any other individual other than the person assisting or the Special Voting Deputy,” and clarifying “only conversation that would identify the elector’s choices.”

Commissioner Jacobs recommended that it read: “Special Voting Deputies may not permit any person other than the Special Voting Deputies or a person who is assisting the elector and marking the ballot to hear any statement by the elector regarding their electoral choices.”

Commissioner Spindell clarified with Attorney Hunzicker that aides could not be in the room with the voter while being assisted by Special Voting Deputies. Attorney Hunzicker answered that only a Special Voting Deputy or a relative of the elector could render voting assistance to an elector who is voting with Special Voting Deputies.

Commissioner Jacobs suggested language in the Zoom chat:

“The SVD's may not permit any person other than SVD or person assisting the elector in marking the ballot to hear any discussion regarding the electoral choices of the elector.”

Chair Millis suggested replacing “person assisting the elector” to “relative of the elector” to conform with statute.

Commissioner Spindell clarified that employees of the facility could not mark the ballot for the voter while Special Voting Deputies were there.

Attorney Hunzicker presented the positive and negative formulations of the language concerning a voter’s private room.

Commissioner Jacobs stated she was in favor of the second option requiring affirmative assent and suggested the following language, to be added after “... permitted to enter the voter’s private room:” “The voter shall be informed that their answer will not affect their right to complete their ballot with the assistance of the SVD’s.”

Chair Millis stated he had no problem with the addition.

Commissioner Bostelmann expressed that observers should not be invited into private rooms, and that the voter would feel intimidated to let an observer into their room. Commissioner Thomsen and Commissioner Spindell agreed, adding that voters might only let observers into their room to avoid coming across as rude. Commissioner Spindell expressed interest in letting observers observe from the doorway. Attorney Hunzicker noted this was close to what 4.05(4)e stated.

Chair Millis proposed: “Under (e), an observer shall not be permitted to enter a voter’s private room,” and “An observer shall not be permitted in a voter’s private room, however observers shall be permitted to observe voting from a common area in accordance with (4)(b).”

Commissioner Bostelmann agreed with the language but suggested that the voter have the right to close the door. Commissioner Thomsen agreed with Commissioner Bostelmann.

Commissioner Jacobs suggested the following language in the Zoom chat:
“e. If voting occurs outside of the common areas of a facility served by special voting deputies, an observer shall not be permitted to enter a voter’s private room, however, the observers shall be permitted to observe such voting from a common area in accordance with sub. (4)(d). An observer shall not be permitted to enter a voter’s private room, however, the observers shall be permitted to observe such voting from a common area in accordance with sub. (4)(d).”

Commissioner Bostelmann reiterated that a voter should be able to close the door if they wanted to. Chair Millis suggested adding, “unless the voter requests the door be shut” after “be permitted to observe such voting from a common area in accordance with sub. (4)(d).”

Commissioner Jacobs put an updated iteration of the language in the Zoom chat:
“An observer shall not be permitted to enter a voter’s private room, however, the observers shall be permitted to observe such voting from a common area in accordance with sub. (4)(d). The voter may elect to close their door or otherwise secure their voting privacy.”

Commissioner Bostelmann stated that the language was acceptable.

MOTION: Adopt the following language:

d. An observer shall be permitted to observe the process of absentee ballot distribution in the common areas of the home or facility.

e. The Special Voting Deputies may not permit any person other than a Special Voting Deputy or relative of the elector assisting the elector in marking the ballot to hear any discussion regarding the electoral choices of the elector. Special Voting Deputies must enforce the voter’s constitutional right to cast a secret ballot, just as the individual is entitled to in other absentee or polling place settings.

f. An observer shall not be permitted to enter a voter’s private room, however the observer shall be permitted to observe such voting from a common area in accordance with sub. (4)(d). The voter may elect to close their door or otherwise secure their voting privacy.

Moved by Commissioner Jacobs. Seconded by Commissioner Bostelmann.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

The Commission took a break at 2:00 p.m. They returned at 2:22 p.m.

EL 4.05(2)c

Administrator Wolfe provided references from the Election Administration Manual to clarify the logistics questions.

Commissioner Jacobs suggested language in the Zoom chat:

“An observer shall be permitted to observe the initial enclosing and securing of an absentee ballot required under section 6.88, Stats., that is received under section EL 4.05(2)(a).”

Chair Millis clarified that if (2)(b) were adopted, it would become (2)(a).

Attorney Hunzicker clarified that the proposed language would cover the initial enclosing of the absentee ballots and would encompass § 6.88.

Commissioner Spindell expressed a preference that the rule include observation of the ballots being taken out of the ballot box, put into a bag, sealing the bag, and the bag being delivered to the clerk’s office.

Commissioner Jacobs agreed with the initial securing being included.

Chair Millis stated he was okay with the language in the chat.

MOTION: An observer shall be permitted to observe the initial enclosing and securing of an absentee ballot required under s. 6.88, Stats., that is received under par. (2)(a).

Moved by Commissioner Bostelmann. Seconded by Commissioner Riepl.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No

Millis: Aye Thomsen: Aye

Motion carried 5-1.

EL 4.03(4)

Chair Millis stated that he wanted to move the rule forward and was willing to change his position.

MOTION: Delete from EL 4.03(4) the last sentence: “The 3-foot distance described in this paragraph shall be applied unless it would interfere with voting activities due to the physical limitations of the observable location.”

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Attorney Hunzicker clarified that the Commission would have further opportunities to comment on and alter rule language before the rulemaking order is finalized and after receiving public comments following the public hearing on the rule language.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No
	Millis:	Aye	Thomsen:	Aye

Motion carried 5-1.

MOTION: The Commission approves the language of the draft observer rule as modified during this meeting and directs staff to: redraft the text into rulemaking order format; submit the draft text to the Legislative Reference Bureau for editing; post the draft text to the agency and Wis. Admin. Rules websites for interested persons to comment concerning any economic impacts; and take other preliminary steps in the rulemaking process as needed. Staff shall then bring all comments and preliminary drafts to the Commission during the next available meeting.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

- H. Consideration and Possible Action Pertaining to the Waiver of the Delegation of Authority and Commission Determinations on Wis. Stat. § 5.06 Complaints**
- a. Matt Roeser v. Celestine Jeffreys (EL 22-37)**
 - b. Eugene Wojciechowski v. Rebecca Grill (EL 22-58)**
 - c. Dawn M. Martin v. Rebecca Grill (EL 23-38)**

Staff Attorney Angela O’Brien Sharpe provided an overview of the agenda item and the options before the Commission.

Discussion.

The Commission did not opt to make a motion regarding this item.

I. Commission Consideration and Possible Action on Existing Ballot Return Guidance Document

The Commission did not consider this item.

J. Commission Discussion and Possible Action on Administrative Rules

a. Declaration of Candidacy Challenges (ss 089-23 and 090-23)

b. Nomination Paper Challenges (ss 091-23 and 092-23)

c. Mandatory Use of Uniform Instructions for Absentee Voting (ss 093-23 and 094-23)

Attorney O'Brien Sharpe reviewed the results of the public comment period for the six scope statements. She then provided an overview of the scope statements and the recommended motions.

MOTION: The Wisconsin Elections Commission has received and reviewed all relevant public commentary for scope statements SS 089-23 and SS 090-23, relating to the proposed rulemaking for the procedural challenge process for Declarations of Candidacy. As the body with policy-making powers over the subject matter of the proposed rule, the Commission accordingly approves these statements of scope as written. The Commission further directs staff to begin drafting proposed rule language for these scope statements to be reviewed and approved by the Commission at an upcoming meeting.

Moved by Commissioner Jacobs. Seconded by Commissioner Thomsen.

Chair Millis noted that he would only vote on a rule that would limit Declaration of Candidacy challenges to those candidates explicitly required by statute to file a Declaration of Candidacy, and only apply to the statutory requirements of a Declaration of Candidacy.

Chair Millis clarified that the 14th Amendment was not a statutory requirement in response to a question from Commissioner Jacobs.

Commissioner Bostelmann stated that her understanding of the scope statements was that the Declaration of Candidacy could be questioned on the basis of statutory requirements, rather than heresay.

Commissioner Jacobs noted that the Commissioners were not advised to prepare remarks on the substance of the rule, and that it was not noted on the agenda.

Commissioner Spindell agreed that Declaration of Candidacy challenges should be based on statutory situations rather than character.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	No
	Millis:	Aye	Thomsen:	Aye

Motion carried 5-1.

MOTION: The Wisconsin Elections Commission has received and reviewed all relevant public commentary for scope statements SS 091-23 and SS 092-23, relating to the proposed rulemaking for the procedural challenge process for Nomination Papers. As the body with policy-making powers over the subject matter of the proposed rule, the Commission accordingly approves these statements of scope as written. The Commission further directs staff to begin drafting proposed rule language for these scope statements to be reviewed and approved by the Commission at an upcoming meeting.

Moved by Commissioner Jacobs. Seconded by Commissioner Thomsen.

Commissioner Spindell advised that the rule language make nomination paper criteria more flexible.

Chair Millis expressed dislike for EL 2.07(3), which says, “Challengers are not limited to the categories set forth in pars. (a) and (b)” and recommended that the rule language specify the grounds.

Commissioner Jacobs sought clarification on whether that would mean an exhaustive list of every challenge raised. Chair Millis clarified that he would like it limited to the statutes. He drew on his experience serving on the State Elections Board to note that the process used to be more forgiving and reiterated Commissioner Spindell’s point about the rule language making nomination paper criteria more flexible.

Commissioner Spindell and Commissioner Thomsen agreed with Chair Millis.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

MOTION: The Wisconsin Elections Commission has received and reviewed all relevant public commentary for scope statements SS 093-23 and SS 094-23, relating to the mandatory use of uniform instructions for absentee voting. As the body with policy-making powers over the subject matter of the proposed rule, the Commission accordingly approves these statements of scope as written. The Commission further directs staff to begin drafting proposed rule language for these scope statements to be reviewed and approved by the Commission at an upcoming meeting.

Roll call vote:	Bostelmann:	Aye	Riepl:	Aye
	Jacobs:	Aye	Spindell:	Aye
	Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

K. Discussion, Review, and Possible Action Pertaining to the Election Administration, Election Day, Caucus, and SVD Manuals for County and Municipal Clerks

Administrator Wolfe introduced the agenda item and its associated materials.

Category 1 – Formatting/Typo – Election Day Manual (Appendix A)

Discussion.

MOTION: Accept changes under Appendix A, Category 1, as well as the following:

- On page 22, change “This booth” to “A booth”
- On page 23, 1.b should either read, "Ballot marking devices, such as the ExpressVote, do not tabulate votes. Therefore, they are not considered electronic voting equipment," or "A ballot marking device, such as the ExpressVote, does not tabulate votes. Therefore, it is not considered electronic voting equipment."
- On page 96, refer to the specific variations of the EL-122 that the Commission has approved, in place of “or variation”

Moved by Commissioner Jacobs. Seconded by Commissioner Riepl.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

Category 1 – Formatting/Typo – Election Administration Manual (Appendix B)

Discussion.

MOTION: Accept changes under Appendix B, Category 1, as well as the following:

- On page 229, change “e.g.” to “such as,” to be consistent with line 8 of Appendix A

Moved by Commissioner Jacobs. Seconded by Commissioner Bostelmann.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

Category 2 – 7.08(3)(c) Manual Maintenance – Election Day Manual (Appendix A)

Administrator Wolfe reviewed the proposed changes line by line for Appendix A. Commissioners’ proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix A, Category 2, as well as the following:

- On page 21, add reference to EL-501 with “Polling Place Accessibility Self-Assessment”

- On page 39, clarify “this” in the redline: “If a municipality uses e-pollbooks, the machine maintains two copies, which may be maintained by a single poll worker.”
- On page 62, make the same clarification as above in (4)
- On page 68, make the language consistent with the corresponding language on page 163 of the Election Administration Manual: You can assist a voter with filling out a registration form. If a voter is unable to sign their own registration form, you can sign their name and then your own as the assistant.
- On page 84, insert footnote: “Badger Book users can find the poll list in the Participation List and Count report under the Admin section of the program.”
- On page 84, include a space after the paragraph
- On page 86, add language: “These individuals are not considered observers and may complete their work outside of any designated observer area.” Remove: “but may not disrupt or interfere with the election”
- On page 96, replace the semicolon after “or overseas voter” with a comma
- On page 105, replace “The notations may not indicate” with “The notations may or may not indicate”
- On page 109, replace, “Remade ballots are issued a sequential number regardless of the reason the ballot was remade. Serial numbers start with the number 1,” with, “Remade ballots are issued a sequential serial number, starting with 1, regardless of the reason the ballot was remade. These ballots are labeled: original ballot number, duplicate ballot number, same serial number.”

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: Aye
 Millis: Aye Thomsen: Aye

Motion carried 6-0.

Category 2 – 7.08(3)(c) Manual Maintenance – Election Administration Manual (Appendix B)

Administrator Wolfe reviewed the proposed changes line by line in the chart for Appendix B. Commissioners’ proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix B, Category 2, as well as the following:

- On page 36, replace “If it’s a state recognized holiday” with “If it is a state recognized holiday”

- Throughout the manuals, standardize references to Badger Books to e-pollbooks (aside from the footnote on page 84 of the Election Day manual, listed above)
- On page 136, replace “home-based educational program” to “private home-based educational program,” consistent with statute
- On page 187, make redlined language consistent with the footnote on page 84 of the Election Day manual, listed above
- On page 202, replace “attached to an email” with “transmitted electronically”
 - o Make the same change on page 210
- Throughout the manuals, standardize “pollbook” and “poll book”
- On page 211, clarify “most electors” to show which voters specifically must return a ballot each time a ballot is sent to them. Detail how a voter could stay on the list to maintain a yearly absentee ballot application.
- On page 212, list “primary election, spring election, etc.” in place of “primary, spring election, etc.”
- On page 212, clarify 2.a.i. consistent with the Commission’s recent guidance on the process for reinstatement

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: Aye
 Millis: Aye Thomsen: Aye

Motion carried 6-0.

The Commission took a break at 4:32 p.m. and returned at 4:47 p.m.

Category 3 – Commission Directives – Election Day Manual (Appendix A)

Administrator Wolfe reviewed the proposed changes line by line for Appendix A. Commissioners’ proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix A, Category 3, as well as the following:

- On page 92, replace “A ballot may also be rejected” with “A ballot may also be set aside for rejection”
- On page 142 and page 23, include a comprehensive list of ballot marking devices with the language “as of date of last approval”

Roll call vote: Bostelmann: Aye Riepl: Aye
 Jacobs: Aye Spindell: Aye
 Millis: Aye Thomsen: Aye

Motion carried 6-0.

Category 3 – Commission Directives – Election Administration Manual (Appendix B)

Administrator Wolfe reviewed the proposed changes line by line for Appendix A. Commissioners' proposed edits are listed in the motion.

Discussion.

MOTION: Accept changes under Appendix B, Category 3, as well as the following:

- On page 153, replace “At least 10% of statewide reporting units will be randomly selected” with “A certain percentage of statewide reporting units, as determined by the Commission, will be randomly selected”
- On page 240, include a comprehensive list of ballot marking devices with the language “as of date of last approval”

Category 4 – Updates due to Legislation or Court Decisions – Election Day Manual

Administrator Wolfe presented options for the Commissioners concerning Question #1 in the Commission's materials.

Discussion.

The Commission determined they did not have enough information to consider the questions in Category 4 and indicated they would meet in January to continue the discussion.

MOTION: Approve the proposed change to the Caucus manual and direct staff to publish that manual.

Moved by Commissioner Bostelmann. Seconded by Commissioner Jacobs.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

L. Closed Session

- a. Advisory Opinion Consideration and Potential Action**
- b. Wis. Stat. § 5.05 Complaints**
- c. Litigation Update and Consideration of Potential Litigation**
- d. Closed Session Minutes Approved**

MOTION: Adjourn into closed session pursuant to Wis. Stat. § 19.85(1)(f), § 19.85(1)(g), § 19.85(1)(h), and § 19.851.

Moved by Commissioner Bostelmann. Seconded by Commissioner Spindell.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

The Commission moved into closed session at 5:47 p.m.

M. Adjourn

The Commission adjourned in closed session at 6:19 p.m.

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December 19, 2023, Wisconsin Election Commission meeting minutes prepared by:

Anna Langdon, Help Desk Staff

December 21, 2023

December 19, 2023, Wisconsin Election Commission meeting minutes certified by:

Carrie Riepl, Commission Secretary

January 24, 2024



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

Wisconsin Elections Commission
Special Teleconference Meeting
201 W. Washington Avenue, Second Floor
Madison, Wisconsin
8:00 a.m. January 9, 2024

Open Session Minutes

Present: Commissioner Marge Bostelmann, Commissioner Ann Jacobs, Commissioner Don M. Millis, Commissioner Carrie Riepl, Commissioner Robert Spindell Jr., and Commissioner Mark Thomsen, all by teleconference.

Staff present: Joel DeSpain, Sharrie Hauge, Brandon Hunzicker, Robert Kehoe, Anna Langdon, Angela O'Brien, Riley Vetterkind, Riley Willman, Jim Witecha, and Meagan Wolfe, all by teleconference.

A. Call to Order

Commission Chair Millis called the meeting to order at 8:01 a.m. and called the roll. All Commissioners were present.

B. Administrator's Report of Appropriate Meeting Notice

Administrator Meagan Wolfe informed the Commission that the meeting was noticed in accordance with Wisconsin's open meetings laws.

C. Ballot Access Challenge

a. Kaney V. Leichsenring (EL 24-03)

Staff Attorney Brandon Hunzicker provided an overview of the challenge and staff's recommendation to sustain three challenges and reject one challenge.

Discussion.

Chair Millis noted that the parties would each have five minutes to present their positions.

Adam Kaney appeared and presented arguments on his own behalf.

Jesse Leichsenring appeared and presented arguments on his own behalf.

Discussion.

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

MOTION: The Commission sustains three challenges within Adam Kaney v. Jesse Leichsenring (EL 24-03) and rejects one challenge in accordance with the staff recommendations contained in this memo. The Commission finds that Jesse Leichsenring submitted 197 valid signatures on his nomination papers. The Commission thus denies ballot access to Jesse Leichsenring for submitting less than the minimum number of 200 required signatures on his nomination papers.

Moved by Commissioner Jacobs. Seconded by Commissioner Riepl.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

D. Ballot Access Report and Certification of Candidates for the 2024 Spring Election

Elections Supervisor Riley Willman provided an overview of the ballot access memo and attachments.

Discussion.

MOTION: The 70 candidates representing ballot-status parties marked “approve” on the “Candidates Tracking by Office” report are approved for ballot access for the April 2, 2024 Spring Election and Presidential Preference, in addition to any candidates who were subject to challenge but were ultimately approved for ballot access by the Commission.

Moved by Commissioner Thomsen. Seconded by Commissioner Bostelmann.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

MOTION: The four candidates marked “deny” in Attachment B are denied ballot access for the April 2, 2024 Spring Election and Presidential Preference, in addition to any candidates who were subject to challenge and were ultimately denied ballot access by the Commission.

Moved by Commissioner Thomsen. Seconded by Commissioner Jacobs.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

E. Adjourn

MOTION: To adjourn.

Moved by Commissioner Spindell. Seconded by Commissioner Jacobs.

Roll call vote: Bostelmann:	Aye	Riepl:	Aye
Jacobs:	Aye	Spindell:	Aye
Millis:	Aye	Thomsen:	Aye

Motion carried 6-0.

The Commission adjourned at 8:31 a.m.

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January 9, 2024, Wisconsin Election Commission meeting minutes prepared by:

Anna Langdon, Help Desk Staff

January 9, 2024

January 9, 2024, Wisconsin Election Commission meeting minutes certified by:

Carrie Riepl, Commission Secretary

January 24, 2024



Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

DATE: For the **January 24, 2024**, Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Prepared and Presented by:
Angela O'Brien Sharpe
Staff Attorney

SUBJECT: Manual Revisions Consistent with Legal Decisions

Purpose & Orientation

This memorandum and its attachments present suggested edits to the Election Day Manual and Election Administration Manual to ensure that the guidance therein is consistent with litigation decisions that have been issued since the last time the manuals were revised and updated.

- Appendix 1A – Legal Revision Chart (Election Administration Manual)
- Appendix 1B – Redline of Election Administration Manual showing proposed changes
- Appendix 2A – Legal Revision Chart (Election Day Manual)
- Appendix 2B – Redline of Election Day Manual showing proposed changes

The majority of the recommended updates in this memo required significant legal review. Accordingly, these updates were grouped together so that the Commission may carefully consider the proposed language, the optional language, and the legal questions presented by litigation updates over the past three years. Each category below has been assigned a color and a topic identifier. Both are present on the charts included as Appendix 1A and Appendix 2A. The charts also contain a column identifying the page number of each respective manual on which the proposed redline changes appear.

These topics include:

Color Code	Question Number in Memo	Topic	Corresponding Line Numbers in Appendix 1A (Election Admin.)	Corresponding Line Numbers in Appendix 2A (Election Day)
Pink	Preliminary Topic	Additional 7.08(3)(c) Manual Maintenance	2, 23, 24	6, 7, 8, 10, 11, 13, 15
Orange	Question 1	Ballot Spoliation	14, 15, 16, 17, 18, 19, 20	9, 21
Grey	Question 2	Caselaw Updates	5, 8	None
Blue	Question 3	Witness Printed Name Field	7	12, 16

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

Red	Question 4	EL 122-SP Name of Facility Field	3	17, 18
Green	Question 5	Incomplete Certificate Envelopes	4, 6, 10, 11, 12, 13, 21, 22	2, 3, 4, 5, 14, 19, 20, 22
Yellow	Question 6	Clerk-Monitored Drop Boxes	9	None
Aqua	Question 7	Partisan Election Inspector List Submission	25	None

As these updates are more complicated than a simple fix of a typo or clarification on long-time election procedures, WEC staff believe that specific motions on these topics should be presented to the Commission along with the statutory and legal background for the potential language for the manuals. The remaining sections of this memorandum discuss specific issues of policy and/or law that require Commission direction.

Preliminary Topic

Pink	Additional 7.08(3)(c) Manual Maintenance
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The manual updates in this section contain additional § 7.08(3)(c) manual maintenance updates that staff noticed while preparing the redlines for the questions in this memo. These changes consist of adding statutory cites and clarifying manual language to eliminate confusion. These changes are identified on the chart in Appendices 1A and 2A in pink.

Possible Motion for Preliminary Topic: The Wisconsin Elections Commission (“the Commission”) directs staff to implement changes from Appendices 1A and 2A in the pink “Additional 7.08(3)(c) Manual Maintenance” category into the Election Administration and/or Election Day manuals. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Question #1: Ballot Spoilation

Orange	Ballot Spoilation
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The recommended manual changes for this question are recommended in order to comply with the injunction issued by the Waukesha County Circuit Court in *Kormanik v. WEC* (2022CV001395, Nov. 29, 2023). Staff have accordingly drafted a new manual section titled “Spoiling and Replacement of Ballots,” and have also added edits throughout the manuals intended to cross-reference back to this section. Staff determined a new, separate manual section was necessary on this topic to provide clerks with a summary of the *Kormanik* decision.

To be clear, and as is reflected in the draft text below, the manuals will be updated consistent with the central premise of the *Kormanik* decision—that the Commission and its staff cannot advise clerks that they can spoil otherwise undamaged ballots after they have been returned by the voter, even at the voter’s request. Edits consistent with that decision are reflected in the first three paragraphs of the draft text below.

In addition to approving the base draft text below, the Commission also should consider three options presented to add additional guidance to this section of the manual:

- **Option – Include Further Guidance (When is a Ballot Returned)** – This is a question staff have received from clerks since the *Kormanik* court issued its temporary injunction in 2022. The reason staff have included it as an option is because the *Kormanik* decision did not explicitly answer the question of when a ballot is returned to the municipal clerk after it has been spoiled or damaged. The Commission should determine whether sufficient reasoning in the *Kormanik* decision warrants updated guidance to clerks that a ballot is returned due to spoliation or damage when it arrives at the clerk’s office.
- **Option – Include Further Guidance (How the Request is Made)** – Consistent with the intent of creating a new manual section, staff determined that additional information on this topic could be helpful to clerks regarding how a voter can make the request for the replacement of a spoiled or damaged ballot. The statute in question specifies that a voter needs to make this request during the applicable statutory timeframe for *requesting* an absentee ballot. Wis. Stat. § 6.86(5) (cross-citing to § 6.86(1) and (3)(c)). The Commission should determine whether to provide this additional guidance to clerks in both manuals.
- **Option – Litigation Note** – The Commission should also determine whether to include a note in the manual that the *Kormanik* litigation is still ongoing.

Draft Manual Text: “Spoiling and Replacement Ballots”

Disclaimer: This section of the manual covers a municipal clerk’s ability to return absentee ballots to electors under § 6.86(5) when the ballot is spoiled or damaged. For information on a municipal clerk’s ability to return absentee ballots to electors under § 6.87(9) when the certificate is incomplete or missing, see “Voter Correction of Incomplete Absentee Certificate Envelopes” on **page XX**. **Be advised that these two sections of the manual are not interchangeable.**

If a clerk receives an absentee ballot that is spoiled or damaged from a voter, statute directs that the clerk shall issue a new ballot to the elector, provided there is enough time for the elector to properly return the ballot. Wis. Stat. § 6.86(5). The clerk must also believe that the first ballot was issued to or on behalf of the elector who is returning it before issuing the second ballot. Wis. Stat. § 6.86(5). If the clerk issues a new ballot pursuant to § 6.86(5), the clerk should destroy the spoiled or damaged ballot. Wis. Stat. § 6.86(5). The spoiled or damaged ballot should be destroyed to the extent that it cannot be tabulated, but should still be preserved as a defective ballot per § 7.51(2)(b). If the clerk does not believe the person requesting the replacement ballot is the one to whom the original ballot was provided, the clerk should not issue the replacement ballot, document the incident for a subsequent challenge on Election Day under § 6.92, and contact law enforcement immediately.

A circuit court has recently concluded on a motion for summary judgment that there is no statutory authority for a clerk to return or spoil an otherwise complete, undamaged absentee ballot that was properly previously returned by an elector. *Kormanik v. WEC* (2022CV001395, Nov. 29, 2023). If an absentee ballot is complete and in totally acceptable condition and was properly returned in an unspoiled and undamaged state, “the statutes provide no basis upon which the voter may ever possess that ballot again.” *Kormanik*, at 13.

A voter who did not receive the replacement ballot, or chose not to return it, is able to vote in-person on Election Day.

Option – Include Further Guidance (When is a Ballot Returned): The *Kormanik* circuit court decision concluded that the only way to read § 6.86(5) is that the spoiling or damaging were already done when the absentee ballot was returned. The circuit court concluded that a ballot that is not damaged or spoiled, and is otherwise complete, is “returned” when it arrives at the clerk’s office. The circuit court noted that § 6.88(1) “requires that upon arrival at the clerk’s office, the ballot shall be sealed in a carrier envelope and must be opened when and where election day votes are being cast...Once the clerk has that returned ballot, it is to be sealed until election day.” *Kormanik*, at 13.

Option – Include Further Guidance (How the Request is Made): If the voter returns an absentee ballot that is already spoiled or damaged to the municipal clerk, the voter’s request for a replacement ballot under § 6.86(5) must be made within the applicable statutory timeframe for *requesting* an absentee ballot. Wis. Stat. § 6.86(5) (cross-referencing § 6.86(1) and (3)(c)). The elector may vote the replacement ballot at the clerk’s office during in-person absentee voting under those procedures, or may vote the ballot under the usual absentee return procedures in § 6.87(4)(b)1.

Option – Litigation Note: As of January 24, 2024, the *Kormanik* matter is still open, and this section of the manual will be updated and/or supplemented consistent with further updates in that case. The Commission is not expecting final judgment before February 2024. In the event of a decision resulting from an appeal, this section of the manual will be further updated and/or supplemented, if necessary.

Possible Motion for Question #1 – The Wisconsin Elections Commission (“the Commission”) directs staff to include the section “Spoiling and Replacement Ballots” in the *Election Administration* and/or *Election Day* manuals, **including/not including** the Option sections. The Commission also directs staff to implement changes from Appendices 1A and 2A in the orange “Ballot Spoliation” category. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Question 2: Caselaw Updates

Grey	Caselaw Updates
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The recommended edits in this section are intended to update the manuals in light of two 2022 court decisions relating to the return of absentee ballots generally and the use of unmanned drop boxes specifically. *Teigen v. Wis. Elections Comm’n*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519; *Carey v. Wis. Elections Comm’n.*, 624 F.Supp.3d 1020 (W.D. Wis. 2022).

The draft manual text appears below, along with an option for the Commission to consider.

- **Option – Litigation Note** – The Commission should also determine whether to include a note in the manual that the *Priorities USA* litigation is still ongoing.

Draft Manual Text

Only the voter may lawfully return his or her completed absentee ballot, either by mail or in person to the office of the municipal clerk, subject to two exceptions. Wis. Stat. § 6.87(4)(b)(1); *Teigen v. Wis. Elections Comm’n*, 2022 WI 64, 59, 403 Wis. 2d 607, 976 N.W.2d 519.

First, pursuant to the Voting Rights Act, any Wisconsin voter who requires assistance with mailing or delivering their absentee ballot to the municipal clerk because of a disability must be permitted to receive such assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union. *Carey v. Wis. Elections Comm’n*, 624 F. Supp. 3d 1020 (W.D. WI 2022).

Second, pursuant to section 6.86(3)(a)1., an agent may return a completed absentee ballot on behalf of a disabled voter by following the procedures required by that section.

When an election official is presented with an absentee ballot delivered in-person, the Commission believes that the official may ask the following questions:

- Are you the voter? If not, then:
- Are you delivering the voter’s ballot because the voter has determined that they require assistance returning their ballot due to their disability? If yes, then:
- Are you someone other than the voter’s employer, an agent of that employer, or an officer or agent of the voter’s union? If yes, then the ballot can be accepted.¹

Option - Litigation Note: On July 20, 2023, a complaint was filed in the matter of *Priorities USA et al v. Wis. Elections Comm’n* (2023CV001900) in Dane County. The complaint seeks declaratory judgment that Commission guidance is invalid to the extent that it prohibits the use of drop boxes for the return of absentee ballots. As of December 2023, no judgement or order has been entered on the merits of this litigation. The *Priorities USA* matter is still being litigated, and this section of the manual will be updated and/or supplemented consistent with further updates in that case, if any.

Possible Motion for Question #2 – The Wisconsin Elections Commission (“the Commission”) directs staff to include the above manual text in the *Election Administration* and/or *Election Day* manuals, **including/not including** the Option sections. The Commission also directs staff to implement changes from Appendices 1A and 2A in the grey “Caselaw Update” category. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Question 3: Witness Name Printed Field

Blue	Witness Printed Name Field
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The recommendations in this section are intended to address the witness printed name field on the absentee certificate envelope. Staff recommend including the text below, and also present two additional options for the Commission to consider:

- **Option – Disclaimer** – The Commission should decide whether to give guidance to clerks on what permitted statutory actions they are authorized to take when an absentee certificate envelope is missing the printed name field for the witness.
- **Option – Litigation Note** - The Commission should also determine whether to include a note in the manual that the *Priorities USA* litigation is still ongoing.

¹ This guidance was approved by the Commission on September 6, 2022, and is available here: <https://elections.wi.gov/news/guidance-absentee-ballot-return-options>.

Draft Manual Text:

On December 1, 2021, the Commission voted unanimously to pass the following motion: “That a space for the witness to provide their printed name be included in the ballot envelope redesign.”² This decision was in response to the Legislative Audit Bureau’s Recommendation #14, which specifically addressed the field where the absentee ballot witness prints their name.

Option - Disclaimer: If an absentee certificate is missing the witness’s printed name, the clerk should decide how to proceed because the Commission does not have a statutory role in receiving and accepting ballots from electors. If a clerk receives an absentee ballot with an improperly completed certificate, § 6.87(9) states that they may return the ballot to the elector whenever time permits the elector to correct the defect. A ballot may also be rejected under § 6.88(3)(b) if the “certification is insufficient.” Statute directs that the absentee ballot certificate language appear in “substantially” the form listed in § 6.87(2), which includes a field for a witness’s printed name, in addition to their signature. A clerk should determine whether a missing witness printed address renders the certification “insufficient” when determining if they should take action under § 6.88(3)(b). See also “Voter Correction of Incomplete Absentee Certificate Envelopes on page XX.”

Option - Litigation Note: On July 20, 2023, a complaint was filed in the matter of *Priorities USA et al v. Wis. Elections Comm’n* (2023CV001900) in Dane County. The complaint seeks declaratory judgment that the witness requirement for absentee voting is invalid. As of December 2023, no judgement or order has been entered on the merits of this litigation. The *Priorities USA* matter is still being litigated, and this section of the manual will be updated and/or supplemented consistent with further updates in that case, if any.

Possible Motion for Question #3 – The Wisconsin Elections Commission (“the Commission”) directs staff to include the above manual text in the *Election Administration* and/or *Election Day* manuals, **including/not including** the Option sections. The Commission also directs staff to implement changes from Appendices 1A and 2A in the blue “Witness Name Printed Field” category. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Question 4 – EL 122-SP Name of Facility Field

Red	EL 122-SP Name of Facility Field
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The recommendations in this category are relevant to a version of the absentee certificate envelope that is important, but rarely used (EL 122-SP). This certificate envelope is used for voters who live in a certified residential care facility that is not served by Special Voting Deputies. On the newly designed EL-122SP, which the Commission voted to approve on November 2, 2023, the “Name of Facility” field appears below the signature field for the authorized representative of the facility. Commission staff have received questions from clerks about what to do if this field is missing.

² Minutes and materials for this meeting are available here: <https://elections.wi.gov/event/wec-december-2021-meeting>

Commission staff recommend including the draft text below in the manuals. The recommended changes would instruct clerks to include the name of the facility on the certificate envelope before it goes to the voter, similar to the way that some clerks include the voter’s own information on the envelope before sending it. This instruction would hopefully avoid a scenario where a clerk has to decide what to do if that field is missing.

Staff also recommend including a cross-reference back to the “Voter Correction of Incomplete Absentee Certificate Envelopes” section in case the Name of Facility field is nonetheless blank when the clerk or election inspector receives a returned, voted absentee ballot.

Draft Manual Text:

Section 6.87(5) requires the authorized representative to certify that the facility or home is certified or registered as required by law. The certification language approved by the Commission on the EL 122 Special³ states: “I certify I am an authorized representative of the facility listed. I further certify that this facility is registered or certified as required by law...”

The Commission accordingly recommends that clerks provide the name of the care facility on the certificate before sending it to the voter to avoid a scenario where the authorized representative fails to include it on the certificate. If the clerk is a WisVote user, the name of the care facility should be input into Line 1 of the address field so that it can be generated on the sticker used for this certificate envelope. If the clerk is not a WisVote user, the clerk should write the name of the care facility on the first line of the address field on the certificate envelope.

If the “Name of Facility” field is nonetheless blank when a clerk or election inspector receives the voted ballot back from the voter, see “Voter Correction of Incomplete Absentee Certificate Envelopes on page XX.”

Possible Motion for Question #4 – The Wisconsin Elections Commission (“the Commission”) directs staff to include the above manual text in the *Election Administration* and/or *Election Day* manuals. The Commission also directs staff to implement changes from Appendices 1A and 2A in the red “EL 122-SP Name of Facility” category. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Question 5: Incomplete Certificate Envelopes

Green	Incomplete Certificate Envelopes
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Pursuant to a permanent injunction, the Commission is permanently prohibited and enjoined from advising, guiding, instructing, publishing, or otherwise communicating information to Wisconsin municipal clerks and local elections officials that clerks or local election officials have the duty or ability to modify for add information to incomplete absentee ballot certifications. *White et al v. Wis. Elections Comm’n et al* (2022CV1008, October 3, 2022).

³ The Commission adopted the revised EL-122 Special form and instructions on November 2, 2023. Commission materials for that meeting are available here: <https://elections.wi.gov/event/wisconsin-elections-commission-november-2023-meeting>

Staff accordingly recommend updating both manuals consistent with the *White* injunction. For ease of review, staff recommend deleting all existing manual content on this topic, and replacing it with a new section titled “Voter Correction of Incomplete Absentee Certificate Envelopes.”

The proposed “Voter Correction of Incomplete Absentee Certificate Envelopes” section has been extensively reviewed by both Commission staff attorneys as well as the DOJ attorneys who represented the Commission in the *White* case. All reviewing attorneys have concluded that this proposed section is fully compliant with *White*, including the additional option sections that the Commission should decide whether it wants to include in the manuals.

- **Options 1, 2, and 3** – These options include different levels of detail regarding a topic that was not fully addressed by the *White* decision. *White* was concerned with the past practice of municipal clerks to complete missing information on the certificate envelope after it was received. However, *White* did not foreclose the statutory ability of the clerk to return the envelope and the ballot to the voter so that the voter can correct the deficiency. Option 3 contains the most detail, and Option 1 contains the least. The bolded text in each option represents the additional text that is not included in the preceding option (i.e. Option 2 contains all of the text in Option 1, plus new text in bold).

Draft Manual Text: “Voter Correction of Incomplete Absentee Certificate Envelopes”

If the information on the absentee certificate envelope is incomplete, or if the certificate is missing, the clerk “may return the ballot to the elector...whenever time permits the elector to correct the defect and return the ballot” so that the municipal clerk can cause the completed ballot to be delivered to the proper polling place by 8 p.m. on Election Day. Wis. Stat. § 6.87(9). If the municipal clerk returns the ballot to the elector under § 6.87(9), the ballot can be returned “inside the sealed envelope when an envelope is received, together with a new envelope if necessary...” Wis. Stat. § 6.87(9).

Sec. 6.87(9) does not limit how a municipal clerk should “return the ballot” to the elector. A clerk may chose to do this by returning it in the mail, or by returning it to the voter in person in the clerk’s office or at the polling place on Election Day.

- **Option 1:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.
- **Option 2:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” **When voting absentee, an elector must mark, fold, and deposit their ballot into the certificate envelope in the presence of a witness, all in a manner that will not disclose how the elector’s vote is cast. Wis. Stat. § 6.87(4)(b)1. Statute does not require the witness to verify any of the voter’s information on the certificate envelope. Wis. Stat. § 6.87(4)(b)1. If the voter is correcting information in the “Voter Information” section of the original certificate envelope (to fill in a missing required field, for example), the original witness does not need to be present to witness the voter correcting the defect under § 6.87(9). If the municipal clerk has provided the voter with a new envelope, the elector must request that their original witness re-complete the witness portion of the absentee envelope. The original witness must be used because they were the one who witnessed the voter marking, folding, and**

depositing the ballot into the envelope. A new witness cannot be used because there is no way for a new witness to witness the elector marking their ballot if an elector is attempting to correct a defect under § 6.87(9). If the witness address field is incomplete or insufficient, the voter and their original witness may go together to the clerk’s office or polling place for the witness to correct the defect.⁴ The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.

- **Option 3:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” When voting absentee, an elector must mark, fold, and deposit their ballot into the certificate envelope in the presence of a witness, all in a manner that will not disclose how the elector’s vote is cast. Wis. Stat. § 6.87(4)(b)1. Statute does not require the witness to verify any of the voter’s information on the certificate envelope. Wis. Stat. § 6.87(4)(b)1. If the voter is correcting the original certificate envelope (to fill in a missing required field, for example), the original witness does not need to be present to witness the voter correcting the defect under § 6.87(9). If, however, the municipal clerk has provided the voter with a new envelope, the elector must request that their original witness re-complete the witness portion of the absentee envelope. The original witness must be used because they were the one who witnessed the voter marking, folding, and depositing the ballot into the envelope. A new witness cannot be used because there is no way for a new witness to witness the elector marking their ballot if an elector is attempting to correct a defect under § 6.87(9). **If the witness address field is incomplete or insufficient, the voter and their original witness may go together to the clerk’s office or polling place for the witness to correct the defect.**⁵ **If the voter corrects the certificate envelope in the clerk’s office, the clerk may issue a new certificate envelope to the voter. Wis. Stat. § 6.87(9). If the voter corrects the “Voter Information” section of the certificate envelope at the polling place, they may only correct the error—they may not vote a new ballot. An election inspector at the polls may issue a new envelope, if necessary, pursuant to the clerk’s authority under § 6.87(9). The voter should open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope. The voter may NOT remove the ballot from the polling place. If a new certificate envelope is issued and completed, the original defective certificate envelope must be destroyed, but still set aside to be accounted for later in the event of a recount. The clerk or election inspector should document that a correction was made (and if the ballot was accepted on Election Day) on the Absentee Ballot Log (EL-124).** The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.

Municipal clerks should make every effort to review absentee certificate envelopes as they receive voted absentee ballots from voters so that they can choose to exercise their authority under § 6.87(9) or § 6.88(3)

⁴ **Litigation Note:** The definition of “witness address” is the subject of ongoing litigation in two Wisconsin circuit courts. *Rise Inc., et al v. Wis. Elections Comm’n et al* (2022CV002446); *League of Women Voters v. Wis. Elections Comm’n et al* (2022CV002472). Although decisions in both cases were issued on January 2, 2024, the litigation, including the issuance of final injunctive relief and appeal schedule, is still ongoing. Accordingly, the Commission is not able to provide guidance pursuant to either case in the January 2024 version of the manual. However, the manual will be updated to be consistent with the final orders in either or both cases.

⁵ **Litigation Note:** The definition of “witness address” is the subject of ongoing litigation in two Wisconsin circuit courts. *Rise Inc., et al v. Wis. Elections Comm’n et al* (2022CV002446); *League of Women Voters v. Wis. Elections Comm’n et al* (2022CV002472). Although decisions in both cases were issued on January 2, 2024, the litigation, including the issuance of final injunctive relief and appeal schedule, is still ongoing. Accordingly, the Commission is not able to provide guidance pursuant to either case in the January 2024 version of the manual. However, the manual will be updated to be consistent with the final orders in either or both cases.

ahead of Election Day. If exercising authority under § 6.88(3), the clerk should label missing and no certificate envelope ballots as “To Be Rejected,” and keep them separate from the rest of the absentee ballots when delivering to the polling place.

However, there may be some instances in which an election inspector notices an incomplete or insufficient absentee certificate while reviewing and processing absentee ballots at the polling place on Election Day. If the election inspector notices that an absentee certificate is incomplete or insufficient, the ballot must be set aside to allow the elector an opportunity to correct the defect and return the ballot under § 6.87(9).

There may be some instances in which time does not permit an elector to correct the defect and return the ballot by 8 p.m. on Election Day. Wis. Stat. § 6.87(9). In that instance, if the certification is still insufficient, the election inspector “shall not count the ballot.” Wis. Stat. § 6.88(3)(b). If a ballot is rejected on this ground, an inspector must write “rejected, insufficient certificate” on the back of the ballot. Wis. Stat. § 6.88(3)(b). The rejected ballot should then be reinserted into the certificate envelope in which it was delivered, and securely seal both in an envelop marked for rejected absentee ballots. Wis. Stat. § 6.88(3)(b). All other procedures specified by § 6.88(3)(b) should always be followed when rejecting absentee ballots for any reason.

The clerk should document any certificate errors on the Absentee Ballot Log (EL-124).

Possible Motion for Question #5 – The Wisconsin Elections Commission (“the Commission”) directs staff to include the above manual text in the *Election Administration* and/or *Election Day* manuals. The Commission also directs staff to implement changes from Appendices 1A and 2A in the green “Incomplete Certificate Envelopes” category. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Question 6 – Clerk-Monitored Drop Boxes

Yellow	Clerk-Monitored Drop Boxes
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The *Teigen* court addressed the legality of unattended drop boxes, and concluded they were not allowed. The *Teigen* decision does not address whether the same conclusion is true of drop boxes that are staffed by municipal clerks. The *Teigen* decision also does not address what physical spaces are included under the umbrella of “the office of the municipal clerk.” The Commission should decide what language appears in the manual:

- **Option 1:**
 - **Draft Manual Text:** “The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee voting site. Wis. Stat. § 6.855; *Teigen v. Wis. Elections Comm’n*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519.”
 - **Staff Note:** This option states what *Teigen* says but does not provide further clarity to clerks for ambiguous situations (i.e. is the hallway outside the clerk’s door part of the “office of the municipal clerk”)
- **Option 2**

- **Draft Manual Text:** “The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee voting site. Wis. Stat. § 6.855; *Teigen v. Wis. Elections Comm’n*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519. The drop box must be attended by the municipal clerk at all times, and must be placed within the “four walls” of the office of the municipal clerk or the alternate absentee voting site. This means that the drop box, even if attended, cannot be placed in the hallway, a borrowed conference room, the lobby of the municipal building, or outside on the sidewalk.”
 - **Staff Note:** This option is consistent with a strict reading of *Teigen*, and would only permit attended drop boxes that are literally, physically located in the office of the clerk or at the alternate absentee voting site.
- **Option 3**
 - **Draft Manual Text:** “The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee voting site. Wis. Stat. § 6.855; *Teigen v. Wis. Elections Comm’n*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519. The office of the municipal clerk means any physical area that is controlled by, and exclusively used by, the municipal clerk in order to carry out their statutory duties.”
 - **Staff Note:** This option is consistent with a broader reading of *Teigen* by recognizing that *Teigen* did not address which physical spaces fall within the “office of the municipal clerk.” This option could provide clarity to clerks, though it’s also possible that a court could disagree with the Commission’s interpretation of *Teigen* in this way.

Possible Motion for Question #6 – The Wisconsin Elections Commission (“the Commission”) directs staff to include the above manual text in **Option 1 / Option 2/ Option 3** in the *Election Administration* and/or *Election Day* manuals. The Commission also directs staff to implement changes from Appendices 1A and 2A in the yellow “Clerk-Monitored Drop Boxes” category. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Question 7: Partisan Election Inspector List Submission

Aqua	Partisan Election Inspector List Submission
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This language reflects that the appointment of partisan election inspectors is required if properly submitted, and further clarifies that a political party can submit their list electronically as long as the signed original of the document is postmarked or delivered by the filing deadline. The Commission should decide whether to include the above language in the manual.

Draft Manual Text:

If the list of appointed election inspectors is emailed in order to comply with the statutory deadline, Administrative Rule EL § 6.04(3) requires that, in addition, the signed original of the document must also be received, either postmarked or delivered by, the filing deadline.

Possible Motion for Question #7 – The Wisconsin Elections Commission (“the Commission”) directs staff to include the above manual text in the *Election Administration* and/or *Election Day* manuals. The Commission also directs staff to implement changes from Appendices 1A and 2A in the aqua “Partisan Election Inspector List Submission” category. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Conclusion

Once the Commission votes to implement the changes reflected in the motions above, Commission staff will implement the changes into the final versions of the manuals alongside other changes approved by the Commission.

Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
2	Electors	71-74	Addition	The Commission has already reviewed this manual text, but a change was made by staff to make the images of the absentee certificate envelopes larger.	Additional 7.08(3)(c) Manual Maintenance	Staff enlarged the images so they're easier to see and read.
3	Electors	80-81	Text Added	Add new subsection (d) beneath (c) and renumber subsections accordingly.	EL 1-22SP Name of Facility Field	Staff recommend adding this section to avoid a potential incomplete absentee certificate envelope. If the clerk adds the name of the facility, it avoids a scenario where the authorized rep forgets to include it. Reminder that use of the EL-122SP is very limited, and is only used for residents of certified care facilities who are not served by SVDs.
4	Electors	83	Text Added	Add to 7(b) See " Voter Correction of Incomplete Absentee Certificate Envelopes " on pg. XX.	Incomplete Certificate Envelopes	Since this portion of the manual references a voter correcting an absentee certificate envelope, a cross-reference is needed to refer clerks back to Commission-approved guidance in the wake of the <i>White</i> injunction. Page number will be updated in final version of manual.
5	Electors	84	Text Added	Add to (8) mailed or delivered in person to the office of the municipal clerk. Wis. Stat. § 6.87(4)(b); Teigen v. Wis. Elections Comm'n, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519..	Caselaw Update	Routine update to add a citation to the Teigen decision, and to modify the manual language consistent with the lead Teigen opinion, which specified "the office of the municipal clerk"
6	Electors	84	Text Added	Add to 8(a) Note: The WEC may issue and and distribute its guidance regarding the definition of 'address.' <i>White v. WEC (2022CV001008)</i> . See " Voter Correction of Incomplete Absentee Certificate Envelopes " on pg. XX.	Incomplete Certificate Envelopes	The addition relating to the definition of address is included to avoid confusion about what the <i>White</i> injunction prohibits. Since this portion of the manual relates to the logical conclusion of what happens if the witness does not include their address, a cross-reference is needed to refer clerks back to Commission-approved guidance in the wake of the <i>White</i> injunction. Page number will be updated in final version of manual.
7	Electors	84-85	Text Added	Add subsection (b) beneath (8)(a) regarding Commission's choice of language for witness's printed name field.	Witness Name Printed Field	If the Commission chooses to offer guidance to clerks regarding what to do if the witness printed name field is missing, staff recommend inserting it here.

Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
8	Electors	85-86	Text Added	Add " Caselaw Update: Return of Voted Absentee Ballots " and accompanying text as an additional section; It will become section (9)	Caselaw Update	Staff recommend adding this section so that the manual is updated pursuant to the <i>Teigen</i> and <i>Carey</i> decisions from 2022.
9	Electors	86	Text Added	This section will be added to the "Caselaw Update" above it depending on how the Commission votes on including guidance regarding supervised dropboxes post-Teigen.	Clerk-Monitored Drop Boxes	If the Commission chooses to offer guidance to clerks regarding some of Teigen's unanswered questions, staff recommend inserting it here.
10	Electors	87	Deletion	Delete chart at the top of the page	Incomplete Certificate Envelopes	The chart is no longer consistent with the White injunction, and modifying it to be compliant would reduce its usefulness and increase confusion for clerks.
11	Electors	87-90	Addition	Add new section "'Voter Correction of Incomplete Absentee Certificate Envelopes"	Incomplete Certificate Envelopes	This section is intended to be a Commission-approved replacement section to existing manual guidance on this topic.
12	Electors	90-91	Revision	Strike all of (2) and revise to the following: If a clerk receives an absentee ballot with an improperly completed certificate, or no certificate, the clerk may return the ballot to the elector under the procedures specified by § 6.87(9). See "Voter Correction of Incomplete Absentee Certificate Envelopes" on pg. XX.	Incomplete Certificate Envelopes	This provision was revised to remove a judgement of what a clerk "should" do and instead just provide the language that's consistent with the clerk's authority under the statute. Since this manual line refers to incomplete certificates and how they can be corrected, two cross-references are needed to refer clerks back to Commission-approved guidance in the wake of the <i>White</i> injunction. Page numbers will be updated in the final versions of the manual.
13	Electors	90-91	Deletion	Delete all remaining sub-parts of section 2 starting on page 90	Incomplete Certificate Envelopes	This subsection should be deleted because this information will be provided in one of the cross-referenced sections in the preceding bullet point.
14	Electors	92	Deletion	Delete chart at the top of the page beneath the header "Spoiling and Replacement Ballots"	Ballot Spoliation	The chart is no longer consistent with the Kormanik injunction, and modifying it to be compliant would reduce its usefulness and increase confusion for clerks.

Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
15	Electors	92-93	Addition	Add new section "Spoiling and Replacement Absentee Ballots"	Ballot Spoliation	This section is intended to be a Commission-approved replacement section to existing manual guidance on this topic.
16	Electors	93	Deletion	Delete (1)	Ballot Spoliation	This subsection should be deleted because this information will be provided in the newly drafted and Commission-approved "Spoiling and Replacement Ballots" section.
17	Electors	94	Deletion	Delete (1)(a)	Ballot Spoliation	This subsection should be deleted because this information will be provided in the newly drafted and Commission-approved "Spoiling and Replacement Ballots" section.
18	Electors	94	Deletion	Delete (1)(b)	Ballot Spoliation	This subsection should be deleted because this information will be provided in the newly drafted and Commission-approved "Spoiling and Replacement Ballots" section.
19	Electors	94	Deletion	Delete (1)(c)	Ballot Spoliation	Staff recommend deleting this section because adding a voter instruction in a manual for clerks is confusing
20	Electors	94	Deletion	Delete (1)(d)	Ballot Spoliation	This subsection should be deleted because this information will be provided in the newly drafted and Commission-approved "Spoiling and Replacement Ballots" section.
21	Electors	94	Deletion	Delete (2)(a)	Incomplete Certificate Envelopes	This subsection should be deleted because this information will be provided in the newly drafted and Commission-approved "Voter Correction of Incomplete Absentee Certificate Envelopes" section.

Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
22	Electors	94	Deletion	Delete (2)(b)	Incomplete Certificate Envelopes	This subsection should be deleted because this information will be provided in the newly drafted and Commission-approved "Voter Correction of Incomplete Absentee Certificate Envelopes" section.
23	Electors	105	Addition	Add new section titled " Securing and Transporting Voted Absentee Ballots "	Additional 7.08(3)(c) Manual Maintenance	Staff recommend adding this new section to provide companion instruction to this topic that already appears in the Election Day Manual. Clerks should be given instruction in the Election Administration manual on how to secure and transport voted absentee ballots.
24	Electors	105	Addition	Add text to new section: When an absentee ballot arrives at the clerk's office, or at an alternate site under § 6.855, the clerk shall enclose it, unopened, in a carrier envelope (EL-125) which shall be securely sealed and endorsed with the name and official title of the clerk. Wis. Stat. § 6.855. The EL-125 should be attached to any container which is used to transport absentee certificate envelopes to the polling place. The certificate may be made in the form of an envelope, or the certificate may be affixed to another container, such as a box, which may be used to transport absentee certificate envelopes to the polling place. Once the container or envelope has been sealed, it cannot be opened again until the container or envelope is in the same room where votes are being cast at the polls during polling hours on Election Day, or at a meeting of the municipal board of canvassers under § 7.52.	Additional 7.08(3)(c) Manual Maintenance	Staff recommend adding this new section to provide companion instruction to this topic that already appears in the Election Day Manual. Clerks should be given instruction in the Election Administration manual on how to secure and transport voted absentee ballots.
25	Election Officials	117	Addition	Add text to subsection (1) under "Qualification of Election Inspectors" regarding the proper filing of the nomination lists from major political parties.	Partisan Election Inspector List Submission	Staff recommend adding this language to confirm to clerks and parties the proper procedure for submitting their lists of election inspector nominees.

Election Administration Manual

for
Wisconsin Municipal Clerks



Wisconsin Elections
Commission

January 2024

Table of Contents

General Information	1-24
Table of Contents	1
Introduction	5
Candidates	25-35
Qualifications for Office	25
Ballot Access Procedure	26
Write-In Candidates	31
Notification of Noncandidacy	32
Filing Officers & Recordkeeping	32
Frequently Asked Questions	34
Notices	37-47
Type A – Notice of Election	37
Type B – Notice of Sample Ballot & Voting Instructions	39
Type C – Notice of Referendum	41
Type D – Notice of Hours & Locations of Polling Places	42
Type E – Notice of Absentee Voting	43
Summary of Publishing Dates	45
Procedures (Publishing and Posting)	45
Frequently Asked Questions	47
Ballots	49-60
Procedures	49
Ballot Format	53
Federal Write-In Ballots for Military & Overseas Electors	58
Referendum Ballots	59
Sample Ballots	59
Frequently Asked Questions	60
Electors	61-121
Voter Qualifications	61
Voter Registration	66
Completing the Voter Registration Application	71
Proof of Residence	78
Electronic Proof of Residence	81
Military and Overseas Voter Registration Requirements	82
Confidential Electors	84
Absentee Voting	87

Proof of Identification	93
Correcting Defective Absentee Certificate Envelopes	99
Spoiling and Replacement Ballots	101
Special Categories of Absentee Voters	103
Indefinitely Confined Electors	103
Military and Overseas Electors	104
Hospitalized Electors	108
Sequestered Jurors	110
Occupants of Residential Care Facilities	111
Alternate Absentee Ballot Site	112
Absentee Ballot Request Deadlines	112
Provisional Voting	113
Frequently Asked Questions	120
Election Officials	123-139
Municipal Clerks	123
Election Inspectors	124
Chief Election Inspectors	130
High School Student Election Inspectors	133
Election Registration Officials (EROs)	134
Special Voting Deputies (SVDs)	135
Greeters & Tabulators	136
Oaths of Office	137
Removing Election Officials	137
Frequently Asked Questions	138
Voting Equipment	141-154
Voting Equipment in Wisconsin	141
Voting Equipment Certification and Approval	141
Pre-Election Equipment Testing	144
Security Procedures for Electronic Voting Systems	147
Post-Election Audit	150
Frequently Asked Questions	153
Accessibility	155-159
Polling Place Accessibility	155
Accessible Voting Equipment	156
Training Election Inspectors – Accessibility	157
Accessibility Contacts & Additional Resources	158
Common Sense & Common Courtesy Points	159

Emergency Preparedness and Contingency Planning	161-163
Procedures	161
Frequently Asked Questions	163
Polling Places & Supplies	165-178
Polling Place Establishment	165
Equipping and Supplying the Polling Place	165
Frequently Asked Questions	175
Polling Place Checklist	178
Election Day Issues	179-193
Role of the Clerk on Election Day	179
Central Count Absentee Ballot Site	179
Observers	181
Voter Cell Phones and Photography in Polling Area	187
Media	187
Polling Place Accessibility Assessments	188
Electioneering	189
Challenging Voters	191
Frequently Asked Questions	192
Post-Election Activities	195-216
Composition of Municipal Board of Canvassers (MBOC)	195
Timeline for Convening the MBOC	196
Duties of Municipal Clerks	200
Processing Provisional Ballots	202
Conducting the Municipal Canvass	206
Breaking a Tie in a Municipal Contest	207
Routing Materials	207
Certificate of Election	210
Absentee Ballot List Maintenance	210
Frequently Asked Questions	213
Supplies Checklist	215
Election Materials from Each Reporting Unit Checklist	216
Recounts	217-220
Procedures	217
Frequently Asked Questions	220
Recall Elections	221-224
Procedures	221

Frequently Asked Questions	224
Other Election Materials	225-230
Cost of Elections	225
Destruction of Election Materials	228
Electronic Conversion of Election Records	230
Wards, Districts, Reporting Units & Annexations	231-238
Wards and Districts	231
Reporting Units	231
Annexation	233
When Annexation Necessitates the Creation of a New Ward	233
Determining Where Annexed Electors Vote	234
Transferring Voters	234
Annexation and Polling Places	235
Notifying Governmental Units of Annexation	235
Frequently Asked Questions	237
Glossary	239-248

CANDIDATES

Summary

All candidates must meet certain qualification requirements and must also complete and file proper ballot access documents in order to gain a spot on the ballot. Municipal clerks serve as the filing officer for municipal offices. Therefore, the municipal clerk should keep detailed records of candidate filings and correspondence. Municipal offices are nonpartisan and are up for election on the first Tuesday in April. If a primary is required, the primary is held on the third Tuesday in February preceding the spring election.

Qualifications for Office

All candidates must meet the residency requirements established for the office to which he or she is seeking election.

1. City Offices: A qualified elector* of the city and residing in city at the time of election. Wis. Stat. § 62.09(2)(a).
2. Aldermanic Offices: A qualified elector* of the city and aldermanic district and residing in the district at the time of election. Wis. Stat. § 61.09(2)(a).
3. Village Offices: A qualified elector* of the village and residing in village at the time of election. Wis. Stat. § 61.19.
4. Town Offices: A qualified elector* of the town at the time of taking office, except an assessor who is appointed under Wis. Stats. §§ 60.307, 60.30(2).
5. School Offices: A qualified elector* of the school district at the time of filing a Declaration of Candidacy (EL-162). If representing an apportioned area, also a resident of that area at the time of taking office. Wis. Stat. § 120.06(2), (6)(b) 2.

*A qualified elector is defined in Wis. Stat. § 6.02, as a U.S. citizen, 18 years of age or older, who has resided in the election district for at least 28 consecutive

days before an election at which he or she offers to vote and who is not disqualified by virtue of one or more of the impediments described in Wis. Stat. § 6.03.

Note: No person may hold any state or local elected office in Wisconsin if the person has been convicted of a felony in any court in the United States unless the person has been pardoned of the conviction. Additionally, no person may have his or her name placed on the ballot for any state or local elective office in Wisconsin if the person has been convicted of a felony in any court in the United States unless the person has been pardoned of the conviction (Wis. Const. Art. XIII, § 3(3)). Any person who falsely signs this statement could be convicted of a violation of Wis. Stat. § 12.13(3)(a), (am).

Ballot Access Procedure

All candidates, regardless of office sought, must complete ballot access documents. Most candidates are nominated for office through the filing of nomination papers. However, some towns and villages use the caucus procedure to nominate candidates for town or village office. All candidates, regardless of the nomination procedure used, must file two documents:

1. Campaign Finance Registration Statement (CF-1, CF-1L). Wis. Stat. § 11.0102(1).
2. Declaration of Candidacy (EL-162). Wis. Stat. § 8.21, Art. XIII, Sec. 3, Wis. Const.

If a candidate fails to file one or both of these forms with the municipal clerk by the deadline for filing nomination papers or by 5:00 p.m. on the fifth day after a candidate is sent notification of nomination at a caucus, the clerk cannot place the candidate's name on the ballot. Wis. Stat. § 8.05 (1)(j). If the fifth day falls on a Sunday or holiday, the deadline is extended to the next business day.

Municipal judge candidates also need to submit a *Statement of Economic Interests* to the Wisconsin Ethics Commission in order to meet ballot access requirements. Ballot Access Checklists (ELIS-6, ELIS-7, ELIS-8) for municipal candidates indicate this requirement and the appropriate filing deadline. Forms and instructions are available from the Wisconsin Ethics Commission's website (<http://ethics.wi.gov>) or by contacting the Wisconsin Ethics Commission at (608) 266-8123.

Additionally, some municipalities may have an ethics ordinance under Wis. Stat. § 19.59(3)(b), requiring a *Statement of Economic Interests* to be filed with the local filing officer in order to achieve ballot status. If you are unsure whether your municipality has an ethics statement requirement, you should check with your municipal attorney. If the statement is not filed by the deadline, the candidate's name will not appear on the ballot.

Clerks should make “candidate packets” available for all prospective municipal candidates. All ballot access forms and checklists are available on the respective Wisconsin Elections Commission and Wisconsin Ethics Commission websites. Candidate packets should include the following forms:

1. Campaign Finance Registration Statement (CF-1, CF-1L)
 - a. The CF-1 is used for recall and referendum committees.
 - b. The CF-1L is used for candidate committees.
2. Declaration of Candidacy (EL-162).
3. Nomination Paper for Nonpartisan Office (EL-169), if required.
4. Appropriate Ballot Access and Campaign Finance Checklists (ELIS-6, ELIS-7, ELIS-8).

Wis. Stats. §§ 8.1, 8.21.

Campaign Finance Registration Statement (CF-1, CF-1L)

For information about the Campaign Finance Registration Statement, please contact the Wisconsin Ethics Commission: ethics@wisconsin.gov.

Declaration of Candidacy (EL-162)

The Declaration of Candidacy (EL-162) may be filed at any time, but not later than the deadline for filing nomination papers or not later than 5:00 p.m. on the fifth day after receipt of notification of nomination at a caucus. A person who has been convicted of a felony cannot run for or hold public office unless he or she has been pardoned of the offense. The Declaration of Candidacy (EL-162) contains a certification that the candidate meets this requirement. Wis. Stat. § 8.21.

NOTE: School District Candidates use the EL-162sd.

The following information is required:

1. The candidate's name.
2. The proper title of the office the candidate is seeking, including any applicable seat, branch or district number.
3. Party affiliation does not apply for municipal (nonpartisan) elections.
4. The candidate's residential address, including number and street and municipality for voting.
5. The candidate's name on the form that the candidate wishes the name to appear on the ballot.
6. The form must be notarized or signed by a person authorized to administer oaths.

Nomination Paper Procedure

All cities and some villages and towns use the nomination paper process.

1. Nomination Papers for Nonpartisan Office (EL-169) containing sufficient signatures for the office sought must be filed, along with the Campaign Registration Statement (CF-1, CF-1L) and Declaration of Candidacy (EL-162), not later than 5:00 p.m. on the first Tuesday in January for the Spring Election. If the first Tuesday in January is a holiday, the deadline is the next business day. Wis. Stat. § 8.10(2)(a).

Nomination papers may not be circulated before December 1st in the year preceding the Spring Election. Wis. Stat. § 8.10(2)(a).

2. Upon receipt of completed nomination papers, the municipal clerk should immediately review the filed papers to determine sufficiency. Nomination papers must be filled out correctly. In order to be sufficient, the following information is required for each section. Wis. Stat. § 8.10(2)(b).
 - a. Review the Candidate Information (top of form). All information concerning the candidate must be completed in full before circulating this form to obtain signatures of electors, including:
 - i. Name of the Candidate as it will appear on the ballot
 - ii. Candidate's residential (physical) address (number and street and municipality for voting). *If the mailing address is the same as the residential address except for the municipality, the municipality used for mailing must also be provided.*
 - iii. Candidate's mailing address if different from residential address
 - iv. Date of Election
 - v. Title of Office (must be listed along with any branch, district, or seat number that clearly identifies the office the candidate is seeking i.e., Town Board Supervisor number, if applicable; aldermanic district number if not an at-large seat)
 - vi. Name of jurisdiction or district in which candidate seeks office. (Town of Smith, Village of Jones, City of Green, Aldermanic District 1)
 - b. Review the Signatures of Electors section. Each row should contain the following:
 - i. Signature of elector (need not be legible)
 - ii. Printed name (must be legible)
 - iii. Address including street number and name
 - iv. Municipality for voting
 - v. Complete date of signing (Date must be between the first day to circulate and the nomination paper filing deadline.)

- c. A nomination paper circulator must be a qualified elector of Wisconsin or, if not a resident of Wisconsin, a U.S. citizen, age 18 or older who would be eligible to vote in Wisconsin if he or she were a resident.

Review the Certification of Circulator for the following:

- i. Name of Circulator
- ii. Address of Circulator (number, street and municipality for voting)
- iii. Signature of Circulator (need not be legible)
- iv. Date of certification (Date must be on or after the latest date of a signer.)

- 3. The number of signatures required depends on the office sought. The Ballot Access Checklist for Municipal Candidates (ELIS-7), which includes the number of signatures required for municipal office, should be included in the candidate packet. Wis. Stat. § 8.10(3)(a).

a. 1 st Class Cities		
Citywide offices		1,500 – 3,000
Aldersperson		200 – 400
b. 2 nd and 3 rd Class Cities		
Citywide offices		200 – 400
Aldersperson Elected At-Large		100 – 200
Aldersperson Elected by Alder District		20 – 40
c. 4 th Class Cities		
Citywide offices		50 – 100
Aldersperson		20 – 40
d. Village and town offices		
		20 – 100
e. School Districts (if nomination papers are used)		
Board of school directors		400 – 800
1 st Class Cities		
School Board Member		100 – 200
territory within a 2 nd class city		
School Board Member		20 – 100
no territory with a 1 st or 2 nd class city		

4. The municipal clerk should issue a receipt to the candidate or candidate's agent when nomination papers are filed. A sample Nomination Paper Receipt (EL-151) is available on the agency website.

Nomination by Caucus Procedure

The specific procedure for nomination by caucus is detailed in the publication, *Procedures for Nomination of Candidate by Caucus*, which is available on the agency website.

1. Only towns and villages may use the nomination by caucus procedure to determine the candidates for town or village office. Nomination by caucus is used in lieu of nomination papers and replaces the nonpartisan primary. Wis. Stat. § 8.05 (1).

At the caucus, nominations for town or village office are taken from the qualified electors present, either by acclamation (voice vote) or by ballot. If necessary, the number of nominees will be reduced to no more than twice the number of positions to be filled by a vote of the qualified electors present.

2. The town or village board must decide the date of the caucus between December 1 and January 1. The date of the caucus must be set between January 2 and January 21. Where possible, preference should be given to having the caucus on January 21. The caucus does not have to be on a Tuesday. Wis. Stat. § 8.05 (1)(a).
3. In addition to being nominated at the caucus, candidates must file the Campaign Registration Statement (CF-1) and the Declaration of Candidacy (EL-162), not later than 5:00 p.m. on the fifth day after the clerk sends or delivers the receipt of notification of nomination at the caucus. (If the fifth day falls on a Sunday or holiday, the deadline is extended to the next business day.) Wis. Stat. § 8.05 (1)(b).
4. Notification of nomination by caucus can be sent by certified mail or personally delivered. If personally delivered, the candidate should sign a receipt indicating that notification was received. Sample Notice of Nomination at Caucus and Receipt of Notice of Nomination are included in the *Procedures for Nomination of Candidate by Caucus* manual, which is available on the agency website. Wis. Stat. § 8.05 (1)(j).

Write-In Candidates

A candidate who wishes to run as a write-in is required to file a Campaign Finance Registration Statement (CF-1, CF-1L) before collecting or spending any money on the campaign no later than 12:00 p.m. on the Friday preceding the election. If the candidate has already filed an CF-1 with the filing officer and subsequently decides to run as a write-in, Commission staff recommend the candidate submit a short-written statement to the filing officer reflecting their intent to run as a write-in. In some cases, votes cast for write-in candidates who do not file a campaign registration statement may not be counted. Please see the “Ballots” section of this manual. Wis. Stat. § 7.50(2)(em).

Notification of Noncandidacy

An incumbent officeholder who does not intend to run again for the position he or she currently holds should file a Notification of Noncandidacy (EL-163). This alerts the public and potential candidates that the incumbent does not intend to run for re-election. Wis. Stats. §§ 8.05(1)(j), 8.10(2)(a), 8.15(1), 8.20(8)(a), 120.06(6)(b).

Clerks are required to promptly provide public notice of all Notification of Noncandidacy (EL-163) information received from incumbents to the municipality’s internet site or by posting notice in three places if no internet site is maintained. Wis. Stats. 8.05(1)(j)2m, 8.10(2)(am), 8.15(1m), 8.20(8)(ae), 120.06(6)(b)3m.

During November before the spring election, the filing officer should remind each incumbent to file a Notification of Noncandidacy (EL-163) if they do not intend to seek re-election to the office they currently hold. The Notification of Noncandidacy (EL-163) is used in municipalities using nomination papers.

Incumbents who have filed a Notification of Noncandidacy by the deadline retain the option of filing nomination papers for ballot access or running as a write-in candidate for the office.

Note: Filing of the Notification of Noncandidacy (EL-163) has no effect when candidates are nominated by the caucus procedure.

Filing Deadlines

1. The Notification of Noncandidacy (EL-163) is due the second Friday before the deadline for filing nomination papers.
2. If an incumbent candidate fails to file a Notification of Noncandidacy (EL-163) on time, and does not file the appropriate documents to qualify for the ballot on time:
 - a. The deadline for filing ballot access documents is extended 72 hours for that office.
 - b. This means that anyone, except the incumbent, can file the required ballot access documents and sufficient nomination papers within the extension period and qualify for placement on the ballot.

Filing Officers & Recordkeeping

Municipal and School District clerks serve as the filing officers for the following elected offices. Wis. Stat. § 8.10(6):

- | | |
|--------------------------|---|
| 1. City Clerk: | Mayor, City Clerk, Treasurer, Alderperson, any other elected city offices. |
| 2. Village Clerk: | Village President, Trustee, Clerk, Treasurer, Municipal Judge, any other elected village offices. |
| 3. Town Clerk: | Chairperson, Supervisor, Clerk, Treasurer, Assessor, Constable, Municipal Judge. |
| 4. School District Clerk | School Board Member |

Note: Multi-jurisdictional municipal judges file with the county clerk of the largest portion of the jurisdiction served by the judge.

Note: The Milwaukee City Board of Election Commissioners serves as the filing officer for all City of Milwaukee offices, including school board.

The municipal clerk is responsible for receiving and retaining forms associated with candidates. The clerk shall create a separate file for each candidate. The following forms should be maintained in the candidate's file and kept for the applicable retention period:

1. Campaign Finance Registration Statement (CF-1, CF-1L)
2. Declaration of Candidacy (EL-162)
3. Nomination Paper for Nonpartisan Office (EL-169), if applicable
4. Nomination Paper receipts, if applicable
5. Receipt for Caucus Notification (Certified Mail or In-Person), if applicable
6. Campaign Finance Report (EL-2L), if required
7. Correspondence

A retention schedule entitled "Destruction of Election Materials" can be found in the *Other Materials* section of this manual.

Frequently Asked Questions

1. Can a candidate who has properly filed nomination papers and qualified for the ballot withdraw their nomination papers to remove their name from the ballot?

No. State law states that any person who files nomination papers and qualifies to appear on the ballot may not decline nomination. The name of that person shall appear upon the ballot except in the case of death of the person. Once an individual has filed nomination papers with a filing officer, and has qualified for ballot placement, nomination papers or other ballot access documents cannot be withdrawn to remove a person's name from the ballot. Wis. Stat. § 8.35(1).

2. *Are incumbents required to file ballot access documents?*

Yes. All candidates including incumbents are required to file the appropriate ballot access documents for each election for which he or she is seeking office.

3. *It is not December 1st yet and a prospective candidate wants me to give him a Campaign Finance Registration Statement (CF-1). May I give it to him?*

Yes, absolutely. As soon as a person decides to be a candidate, he or she is *required* to register. Therefore, candidate packets, which include the Campaign Finance Registration Statement (CF-1), should be available for candidates at all times.

4. *It is not December 1st yet and a prospective candidate wants me to give him nomination paper form (EL-169). May I give it to him?*

Yes. A nomination paper form may be given to a prospective candidate at any time. The EL-169 should be included in the candidate packet.

5. *What if a candidate is campaigning before the Campaign Finance Registration Statement (CF-1, CF-1L) is filed?*

Failure of the candidate to file a Campaign Finance Registration Statement (CF-1) if they are collecting or spending money toward the campaign is a violation of campaign finance law and should be reported to the Wisconsin Ethics Commission.

However, failure to file a Campaign Finance Registration Statement (CF-1, CF-1L) does not affect the candidate's ballot access as long as the form is filed by the filing deadline.

6. *What happens if no candidates qualify for ballot placement?*

If no candidates properly complete and file ballot access documents in the time frame allotted, the ballot will contain only a space for a write-in candidate. (See Procedures for Nomination of Candidates by Caucus for information on this topic with respect to the caucus nomination procedure.)

7. *What should I do if I believe that an individual filing ballot access documents is a convicted felon?*

If it is brought to the filing officer's attention that a convicted felon has filed ballot access documents, the matter needs to be resolved in consultation with the municipal attorney. It is the position of the Wisconsin Elections Commission that the municipality should only act on information presented in the form of a sworn complaint, alleging that a candidate has been convicted of a

felony and evidence is provided in support of that allegation. The municipal attorney can assist the filing officer in verifying the basis of the complaint.

Once it has been determined that a candidate or an elected official has been convicted of a felony, the municipal attorney can assist the filing officer in removing the person's name from the ballot or take appropriate steps to have the person removed from office. A formal notice should be sent to the candidate or elected official informing him or her of the filing officer's decision to remove his or her name from the ballot.

8. *Should I, as clerk, check to make sure that no elected official or candidate has been convicted of a felony?*

No. The municipal clerk is not required to verify that every elected official or candidate for elected public office has not been convicted of a felony for which they have not been pardoned. The clerk should rely on the sworn statement of the candidate on the Declaration of Candidacy. No action should be taken unless there is evidence in the form of a sworn complaint as described above.

9. *What if our office is closed the first Tuesday in January for a holiday?*

If it is a state recognized holiday, the deadline for filing ballot access documents is extended to the next business day. If it is not, the clerk must be available for candidates filing ballot access documents.

NOTICES

Summary

County, municipal, and school district clerks are responsible for publishing five basic election notices:

1. Type A – Notice of Election
2. Type B – Sample Ballot and Voting Instruction Notice
3. Type C – Notice of Referendum
4. Type D – Polling Place Location and Hours Notice
5. Type E – Absentee Voting Notice

Sample election notices can be found on the agency website. These samples may require modification for your municipality based on offices up for election and voting equipment used in your municipality.

Additionally, Wisconsin law requires that meetings of all state and local governmental bodies, including governmental subunits, shall be publicly noticed, held in places reasonably accessible to members of the public, and shall be open to all citizens at all times unless otherwise expressly provided by law. Election-related meetings such as Board of Canvassers, voting equipment testing, post-election audits, etc., fall under this requirement, and the municipal clerk must properly notice such meetings. If you have specific questions about requirements for open meetings notice, please consult with your municipal attorney.

Wis. Stats. §§ 8.50, 8.55, 10.01, 10.02, 10.04, 10.06, 19.84, 120.06.

Type A – Notice of Election

The purpose of this notice is to inform the public and potential candidates of the offices to be elected and inform voters of the upcoming election. This notice must include the following information:

1. Date of the election

2. Offices to be elected
3. Name(s) of the current incumbent(s)
4. Length of the term(s) and expiration date(s)
5. Beginning date for circulating nomination papers, if applicable
6. Deadline for filing nomination papers, if applicable
7. Proper location to file nomination papers, if applicable
8. Scheduling of caucus, if applicable
9. Statement on where to find district boundary information

For an election at which a referendum is to be held, the Type A Notice must include the following information:

1. Date of the election
2. Text of the referendum question
3. Statement on where to obtain a copy of the resolution directing submission of the question to the voters

Wis. Stat. § 10.01(2)(a).

Publishing

1. Spring elections:

County clerks publish the Type A notice for federal (if required), state and county elections on the 4th Tuesday in November before the spring election.

Municipal clerks publish one Type A notice for municipal offices on the fourth Tuesday in November before a spring municipal election.

If there will be any municipal referenda to be voted on at the spring primary or election, municipal clerks publish a Type A Notice of

Referendum on the fourth Tuesday before the spring primary or election at which the referendum will appear.

2. Fall elections: County clerks publish the Type A notice for federal, state and county elections on the 2nd Tuesday in April preceding the general election.

If there are statewide constitutional amendments or county referenda on the ballot, the county clerk shall publish a Type A Notice of Referendum on the fourth Tuesday preceding the partisan primary and general election at which the referendum will appear.

If there are municipal referenda on the ballot, the municipal clerk shall publish a Type A Notice of Referendum on the fourth Tuesday preceding the partisan primary or general election at which it will appear.

3. Special municipal primary or election: Municipal clerks must publish the Type A notice at least 40 days preceding a primary and election for municipal office.
4. Special municipal referendum election: Municipal clerks must publish the Type A notice on the fourth Tuesday preceding the election.

Wis. Stat. § 10.06(2), (3).

Type B – Sample Ballots and Voting Instructions

The purpose of this notice is to inform voters of the ballot type and the candidates for which they will vote, as well as provide voting instructions. This notice must include the following information:

1. Applicable voting instructions for each type of voting system used
2. A copy of each type of ballot to be voted on

Layout and Format

1. The headline or caption, the introductory paragraph and the voting instructions shall be printed once at the beginning of the Type B Notice, followed by a sample of each ballot to be used at the election.

2. The sample ballots shall follow the voting instructions:
 - a. The size and style of type and the general display of the sample ballots shall conform substantially to sample ballots provided by the Wisconsin Elections Commission. However, the ballot size may be reduced for publication in the notice.
 - b. State law requires that all sample ballots must be printed on paper of a different color than the official ballots, may not be white, and must be overprinted with the word "SAMPLE".
 - c. Touch screen sample ballots shall show a reduced diagram of the first screen of the touch screen voting machine and instructions to electors on how to vote on the machine.

Wis. Stat. § 10.01(2)(b).

Publishing

1. Spring elections: Municipal clerks publish the Type B notice for municipal offices and referenda on the Monday before the spring election. Wis. Stats. § 10.06(3).

If there is a municipal primary, municipal clerks also publish a Type B notice on the Monday before the primary.

2. Fall elections: County clerks publish the Type B notice for state and county elections and referenda on the Monday before the partisan primary and before the general election. Wis. Stat. § 10.06(2).

If there are municipal referenda on the ballot, municipal clerks publish a Type B notice of referendum on the Monday before the election.

3. Special municipal election or referendum elections: Municipal clerks must publish a Type B notice on the day before the special municipal election, primary, or special municipal referendum.

Wis. Stat. § 10.06(2), (3).

Type C – Notice of Referendum

The purpose of this notice is to inform voters of a referendum question that will appear on the ballot and provide an explanation of the effect of the referendum question. This notice must include the following information:

1. Date of the election
2. Entire text of the proposed enactment
3. Question as it will appear on the ballot
4. An explanatory statement describing the effect of a “yes” or “no” vote

Wis. Stat. § 10.01(2)(c).

Publishing

1. Spring elections: If there are municipal referenda, municipal clerks publish a Type C notice on the Monday before the spring election.

If there is a municipal primary where referenda are voted on at the primary, municipal clerks publish a Type C notice on the Monday before the primary.

2. Fall elections: County clerks publish Type C notices for county and state referenda on the Monday before the partisan primary and general election.
Wis. Stat.
3. If there are municipal referenda on the ballot, municipal clerks publish a Type C notice on the Monday before the election.
4. Special municipal election or referendum elections: Municipal clerks must publish a Type C notice on the day before a special municipal referendum.

Wis. Stat. § 10.06(2), (3).

Type D – Hours and Location of Polling Places

The purpose of this notice is to inform voters of the correct polling location and the hours during which they may cast a vote. This notice must include:

1. Location of polling places
2. Wards served by each polling place
3. Hours of polling (7:00 a.m. to 8:00 p.m.)
4. A statement about the accessibility for elderly voters and voters with disabilities for each polling place
5. Public notice of the meeting of the local board of canvassers and the municipal board of canvassers, if required.

NOTE: For meetings of the local board of canvassers, the notice requirement may be met by adding a sentence to each Type D Notice indicating that immediately after the polls close, the election inspectors at each polling place will convene as the local canvassing board for the purpose of conducting local canvass pursuant to Wis. Stat. § 7.51.

When a municipal board of canvassers meets on Election Night in a municipality with only one polling place, the Type D notice should also indicate that, after or jointly with the meeting of the local canvassing board, the election inspectors will convene as the municipal canvassing board for the purpose of conducting the municipal canvass pursuant to Wis. Stat. § 7.53(1).

~~[For more information and sample language, please see the October 24, 2014 clerk memo, “Canvass Boards and Open Meeting Requirements—Change in Type D Notice Required.”](#)~~

Wis. Stat. § 10.01(2)(d).

Publishing

1. Spring elections: Municipal clerks publish the Type D notice on the Monday before the spring primary and election.

2. Fall elections: Municipal clerks publish the Type D notice on the Monday before the partisan primary and general election.
3. Special election or referendum elections: Municipal clerk must publish a Type D notice on the day before any special primary or election for national, state, county or municipal office, or special county or municipal referendum.

Wis. Stat. § 10.06(3).

Type E Notice – Absentee Voting

The purpose of this notice is to inform voters of the process and deadlines for obtaining and casting an absentee ballot. This notice must include:

1. Qualifications for voting absentee
2. Procedures for obtaining an absentee ballot from the municipal clerk
3. Applicable deadlines for requesting and returning an absentee ballot
4. Any alternate site for absentee voting established under Wis. Stat. § 6.855
5. Office hours during which an elector may cast an absentee ballot at the clerk's office or an alternate site

In-person absentee voting may begin when ballots are available and may not include the Monday before an election. The Type E Notice shall specify the hours that the municipal clerk will be available to conduct in-person absentee voting. The hours may be the same each day or vary from day to day. The municipal clerk may conduct absentee voting outside of the hours listed in the Type E Notice. In-person absentee voting which begins before the notice is posted should be publicized in some manner, such as posting on the municipal website, on the clerk's office door or via press release. If in-person voting will be "by appointment," the Type E Notice must specify when the clerk will be available for appointments.

Wis. Stat. § 10.01(2)(e).

Publishing

1. Spring elections: Municipal clerks publish the Type E notice on the fourth Tuesday before the spring primary or election.
2. Fall elections: Municipal clerks publish the Type E notice on the fourth Tuesday before the partisan primary and general election.
3. Special primary, election or referendum elections:
 - a. Municipal clerks publish the Type E notice on the fourth Tuesday before any special primary for national, state, county, or municipal office.
 - b. Municipal clerks publish the Type E notice on the third Tuesday before any special election for national, state, county or municipal office which is not held concurrently with the spring or general election.

Wis. Stat. § 10.06(3).

Summary of Publishing Dates

	Spring Elections	Fall Elections	Special municipal primaries, elections, or referenda	Special primary, election, or referenda for national, state, or county
Type A	For spring municipal elections: 4 th Tuesday in November before the election	Published by County Clerk	For municipal offices: 40 days before the primary or election	Published by County Clerk
Type A: Notice of Referendum Election	If referenda voted on for spring primary or election: 4 th Tuesday before spring primary or election	Only if municipal referendum on ballot: 4 th Tuesday before the partisan primary or general election	For special municipal referendum: 4 th Tuesday before referendum election	Published by County Clerk
Type B	For spring primary or election: Monday before primary or election	Only if municipal referendum on ballot: Monday before the election	Day before the election	Published by County Clerk
Type C	If municipal referendum on ballot: Monday before the election	Only if municipal referendum on ballot: Monday before the election	Day before the election	Published by County Clerk
Type D	Monday before the election	Monday before the election	Day before the election	Day before the election
Type E	For spring primary or election: 4 th Tuesday before the election	4 th Tuesday before partisan primary and general election	Primary: 4 th Tuesday before	Primary: 4 th Tuesday before
			Election: 3 rd Tuesday before	Election: 3 rd Tuesday before
			Referendum: 4 th Tuesday before	Referendum: 4 th Tuesday before

Procedures

Using Weekly Newspaper

If a weekly newspaper that is not published on Monday is used for publication, the notices required to be published the day before the election must appear in the issue that is published during the week preceding the election. Notices may be published on a Saturday or Sunday if the clerk determines that this method provides more effective notice to the public.

Combined Publications and Prorated Costs

County, municipal, and school district clerks may combine election notices where the notices contain identical information and when the levels of government share the same official newspaper. This practice reduces costs and avoids duplication. The costs for these combined notices can be prorated with the county paying for the portion of the notice covering federal, state, and county offices and municipalities and school districts paying for the portion that covers their respective local offices.

Wis. Stat. § 10.04.

Posting in Lieu of Publication

Towns and villages may post election notices in lieu of publication where there is no newspaper published within the municipality. Please note that any notices that are posted physically should be in 18-point font or larger.

1. This is done by action of the governing body and, if it changes the former manner of notices, a notice must be given of the change before it can take place.
2. The same manner of notification must be used for all notices pertaining to an election.
3. Posting must be done in at least three conspicuous locations within the municipality, or in one location within the municipality and on the municipality's website.
4. For notices required to be published within one week of the primary or election (Types B, C, and D), posting must be done at least one week before the election. For all other notices (Type A and E), posting must be done no later than the required publication dates.
5. Posting may also be done to supplement publication.

Wis. Stat. § 10.05.

Frequently Asked Questions

1. When can jurisdictions combine their notices to save on printing costs?

Jurisdictions may combine their notices if the information on the notice is identical and when the levels of government share the same official newspaper. For example, only one Type B notice with sample ballots for each type of equipment, along with a list of candidates, districts and seats to be voted on in each municipality, needs to be published.

2. Who writes the explanatory statements for referendum questions?

For statewide referenda, the explanatory statement is prepared by the Attorney General. For county questions, the statement is prepared by the county's corporation counsel, and for municipal or school district referenda, the statement is prepared by the attorney representing the jurisdiction.

3. What should a municipal clerk do if they miss a publication date for a notice or their newspaper of record makes an error?

Clerks should attempt to fix any errors as soon as possible through an amended notice. If a periodic newspaper makes an error, it may not be possible to submit a timely correction. In this situation, municipal clerks should post the notice on their website, in their office, and anywhere else that may provide voters with needed information.

BALLOTS

Summary

County, municipal and school district clerks are responsible for preparing the ballots to be used in their respective elections. County clerks are also responsible for preparing ballots for federal and state offices and for the office of multi-jurisdiction municipal judge.

Where electronic voting equipment such as optical scan or direct recording electronic (DRE) is used, and federal and/or state and county offices are up for election as well as municipal and school district offices, the county clerk often prepares the ballots for municipal and school district offices. In these municipalities, municipal clerks are responsible for ensuring that sufficient paper ballots are available in case of equipment malfunctions, for absentee ballot requests, assisted electors, and for any other elector who may request a paper ballot on Election Day.

Procedures

Certifying the Number of Electors

Municipal clerks are required to certify to the county clerk the approximate number of electors in their municipality no later than the first day of the second month before a primary. This number is used by the county clerk to determine the number of ballots to print for the election. Wis. Stat. § 5.66(1).

Determining Ballot Order of Candidate Names

1. The order that candidates' names will appear on the ballot is determined by drawing of lots or some other random determination (for example: drawing numbers or names out of a hat or flipping a coin if there are only two candidates).
2. For a spring election, drawing of lots is held not later than seven days after the deadline for filing nomination papers. Wis. Stats. §§ 5.58
 - a. The drawing is done at this time for those offices requiring a primary and also for the election ballot for those offices where a primary is not required.

- b. Following the primary for any office, the names are redrawn for that office to determine the order of names on the election ballot. Wis. Stat. § 5.60(1)(b), (5), (6).
3. Where the caucus procedure is used for nominating candidates for municipal office, the drawing is held no later than the end of the third day following qualification of all candidates. Wis. Stat. § 8.05(1)(j)4.
4. For a fall election, the county clerk (for county offices) and Wisconsin Elections Commission (for federal and state offices) draw for ballot order for the primary ballot not later than seven days after the deadline for filing nomination papers. Names are placed on the general election ballot following party order as certified by the Wisconsin Elections Commission. Wis. Stat. §§ 5.60(1)(b), 5.62(3), (4).
5. When conducting the drawing of lots for placement of names on the ballot, the Wisconsin Elections Commission recommends that at least three people participate in the drawing, the policy used by the Commission.
 - a. The three people are generally the clerk and two other people selected by the clerk.
 - b. It is important that the drawing be properly witnessed and documented.
 - c. The documentation should include the date of the drawing for ballot order, the ballot order drawn, the signature of the people who actually drew out the names, and the signatures of the two people who witnessed the drawing.
6. It is not necessary for candidates to be present at the drawing, but as a courtesy they may be invited to attend. If all candidates are present, they may draw for themselves.
7. Drawing of lots is not required to be done at a board meeting and should not be delayed for this reason.

Certifying Candidate Names and Referenda to the County Clerk

When the county clerk prepares the ballot:

1. Where electronic voting devices are used:
 - a. The county clerk prepares the ballots for municipal and school district offices. Wis. Stats. §§ 7.10(1), (2); 7.15 (2)(c), (6).
 - b. The municipal and school district clerks must certify any names of candidates and any referenda to the county clerk as soon as possible following the deadline for filing nomination papers or declarations of candidacy, but no later than the deadline for drawing for ballot order, using the EL-405, which may be found on the agency website. Wis. Stats. §§ 5.58(1b)(bm), (cm), (1c), (1g)(c), (2), (2m) 5.60(1)(ag), (b), (3)(b), (4)(c), (5)(ar), (6)(a).
2. Where a caucus is held, the names of candidates must be certified to the county clerk as soon as possible following the qualification of candidates, but no later than the 3rd day after qualification of candidates, using the EL-405, which may be found on the agency website. Wis. Stat. §8.05(1)(j)4.
3. After any primary, the names of candidates must again be certified to the county clerk as soon as possible after the canvass, but no later than the third day after completion of the municipal or school district canvass, using the EL-405, which may be found on the agency website. Wis. Stat. § 5.60(1)(b), (5), (6).
4. The cost of programming equipment and printing these ballots is prorated among the various levels of government participating in the election. Wis. Stat. § 5.68.

Printing and Proofing Ballots

Clerks should ensure that sufficient ballots are printed to avoid running out on Election Day. In municipalities that use direct recording electronic (DRE) equipment, the clerk must ensure that sufficient paper ballots are provided in case of equipment malfunction and to accommodate absentee ballot requests, assisted electors, and any other person who may request a paper ballot. Municipalities using DREs should also ensure that all machines have a full roll of paper and that there are paper rolls in reserve should they be needed. Each clerk responsible for

printing ballots must assure that his or her printer has the most current sample ballots. It may be helpful to provide a copy of this section of the training manual to your printer. Wis. Stat. § 7.08.

Clerks should carefully review and proofread each ballot proof before printing to assure that:

1. The ballot used is the current form
2. The ballot contains all and only the offices up for election
3. All office titles are correct, spelled correctly, and in the correct order
4. All candidates' names are spelled correctly and are in the correct order
5. The form of each candidate's name reflects the candidate's desire as indicated on the Declaration of Candidacy. Wis. § Stat. 8.21(3).
6. On optical scan ballots, the candidate names are justified so that the names are closest to the oval or arrow.

It is recommended that you also proof the final product as soon as you receive it from the printer so that any errors can be identified and corrected immediately.

Delivery

In order to ensure that absentee ballots are mailed to electors who have requested them in a timely fashion:

1. Ballots must be printed and delivered to the municipal clerk at least 22 days before a February spring primary, April spring election, or special primary or election. Wis. Stat. § 7.10(3)(a).
2. Ballots must be printed and delivered to the municipal clerk at least 48 days before a Partisan Primary and November General Election. A special Presidential Preference only ballot must also be delivered at least 48 days before the Presidential Preference Vote. Wis. Stat. § 7.10(3)(a).

Ballot Format

Before preparing any ballots, the clerk must make sure that the most current ballot samples are used. Outdated ballot formats will not contain required statutory language and may not conform to ballot uniformity standards. The proper ballot formats are prescribed by the Wisconsin Elections Commission and may be accessed on the agency website. Wis. Stats. §§ 5.51, 7.08.

Ballot samples provided on the agency website contain virtually all offices that could appear on each ballot. It is important to note that only the offices that are up for election at any given election appear on the ballot. This means that ballot samples must be modified to eliminate any office from the ballot that is not up for election, or to add any offices that are up for election but may be missing from the sample ballot.

There are several basic requirements that apply to the preparation of all ballots, regardless of the type of election. These requirements are set out below:

Size

The size of your ballot will depend on how many offices are up for election and how many candidates there are for each office. There is no actual size requirement for a ballot, but all ballots must be of sufficient width and length to provide space for all required information to be clearly printed on them. At a partisan primary, when using hand-count paper ballots, the ballots for each separate party must be the same size. Wis. Stat. § 5.51(3), (6)

Columns

All ballot columns must be separated by lines at least one-eighth inch (1/8") width, except for ballots used with an electronic voting system. Wis. Stat. § 5.51(3).

Type Face

The type face used on all ballots must be an easy-to-read, sans-serif font. Arial is preferred. Except for certain headings, all print must be in mixed case. In no case shall the font size be smaller than 8 point. A sample of 8-point font is given below. Larger print should be used whenever possible (for example, this manual was written in 14-point font). Wis. Stat. § 5.51(1).

Justification

With certain exceptions, paragraphs, office titles, district, and “Vote for 1,” must be left justified. Candidate names must be left justified if using “oval” ballots, and right justified if using “arrow” ballots. Wis. Stats. §§ 5.51, 7.08.

Date

The date of the election must appear on the face of the ballot beneath the title of the ballot. Wis. Stats. §§ 5.51, 7.08.

Paper Weight

Wisconsin statutes set out a standard for the weight of the paper used for hand-counted ballots. The standard is 35 pounds per ream for sheets that are 24 inches by 36 inches (24”x36”). Ballots will never be that large so the weight of the paper used must be proportioned accordingly to meet this standard. Alert your printer to this requirement to ensure that paper of the proper weight is used. Wis. Stats. § 5.51 (2).

Color

The law does not require ballots to be printed a specific color, but different colors can be used for each type of ballot to be used at an election. Wis. Stats. § 5.51(5).

1. The only legal requirements concerning the color of ballots are:
 - a. Paper hand-count referendum ballots must be printed on paper of a color that is different from other ballots used at the election. Wis. Stats. § 5.51(5).
 - b. At a partisan primary, paper hand-count ballots for each separate party must be printed on the same color paper and be the same size. Wis. Stats. §5.51(7)
 - c. Sample ballots cannot be the same color as the official ballots and may not be white. Wis. Stats. §§ 5.51(7),5.66(2).

2. Paper ballot color coding:
 - a. Using different colors to distinguish one type of paper ballot from another (federal, state, county ballots, municipal ballots, school district ballots and referendum ballots) helps to ensure that the inspectors give one of each type of ballot to the voter.
 - b. Color coding is particularly helpful when two reporting units share a single polling place.
 - c. Color coding makes it easier for the voter to deposit his or her ballot in the proper ballot box and also makes separating and counting of ballots much easier for the election inspectors.

3. Color coding can also be used to distinguish between ballots if the municipality uses optical scan equipment.

For example, ballots containing School District A offices and/or referenda could be a different color than the ballots containing School District B offices and/or referenda.

4. Using different color-coded ballots requires coordination among county, municipal, and school district clerks to ensure that the ballot prepared by each clerk is of a different color.
5. Within WisVote, each ballot style can be given its own specific name, which appears next to the voter's name on the poll list.
 - a. For example, a ballot style for a certain school district can be named "green" to match the color of the ballot for that school district.
 - b. This helps election workers to quickly identify which type of ballot to give to the voter.

Write-in Lines and Boxes, Ovals or Arrows

1. The ballot must contain a number of write-in lines equal to the number of candidates to be elected for each office. This is true for both primaries and elections.
2. For paper ballots:

- a. *Do not* include a box, square, arrow or oval on the write-in line.
- b. The voter is not required to place an X or any other mark on the ballot when voting for a write-in candidate. The voter needs only to write the name of the write-in candidate.

Wis. Stat. § 7.50(2)(d).

3. For optical scan ballots:

- a. An oval or arrow *is* required to appear next to each write-in line.
- b. A completed arrow or filled-in oval next to a write-in line signals the tabulating equipment to deflect the ballot into the write-in compartment.
 - i. The voter is not required to complete the arrow or fill in the oval when writing in a name in order to have the vote counted.
 - ii. After the polls close, inspectors must page through the optical scan ballots that have not been deflected to the write-in compartment to locate and count any write-in votes.
 - iii. Please see *Counting Write-in Votes* in the “Ballots” section of the Election Day Manual for more information.

Wis. Stat. § 7.50(2)(d).

Ballot Endorsement

Every ballot must have an endorsement. Endorsement language is prescribed by the Wisconsin Elections Commission on the Reverse Side of Official Ballots (EL-229), which is available on the agency website. Wis. Stat. §§ 5.55, 7.08(1)(a).

1. The endorsement contains:

- a. The title and date of the election
- b. The municipality and wards applicable to the ballot: If all reporting units use the same ballot style, all reporting units may be printed on the ballot rather than printing separate ballots for each reporting unit.

The clerk and inspectors must remember to mark the appropriate ward or reporting unit before issuing a ballot to a voter. A rubber stamp may also be used to apply ward numbers to the endorsement.

- c. Spaces for the official(s) issuing the ballot to initial before giving a ballot to a voter
 - i. A space for two inspectors to initial before issuing a ballot on election day. Wis. Stats. §§ 5.54, 6.90(2)(d).
 - ii. A space for the municipal or deputy clerk to initial when issuing an absentee ballot. Wis. Stat. §§ 5.54, 6.87(1).
 - iii. A space for both SVDs to initial when conducting absentee voting in care facilities or retirement homes. Wis. Stats. §§ 6.875(4), 7.08(1)(a).
 - d. A certification to be signed by a person who may assist a voter in marking the ballot. Wis. Stats. §§ 6.82(2), 7.08(1)(a).
 - e. A “For Official Use Only” area where inspectors record remaking an optical scan ballot.
2. For paper ballots, the endorsement appears on the reverse side of the ballot.
 3. For optical scan ballots, an endorsement section containing the Reverse Side of Official Ballots (EL-229) language, including the “For Official Use Only” section, may appear on the back of the ballot or at the bottom of any column.

Appearance of Candidates’ Names

1. All candidates’ names must be printed in the same font size, style and color. Wis. Stat. § 5.51(6).
2. The candidate indicates on the Declaration of Candidacy (EL-162) how he or she wishes his or her name to appear on the ballot. Wis. Stat. § 8.21(3).
 - a. No abbreviations, titles, quotation marks or parenthesis are permitted. A candidate may use their last name and first name or initial(s). A

middle name or initial or a former legal surname may also be used. Wis. Stat. § 8.10(2)(b).

- b. A nickname may be used in place of or in addition to the first name. The Wisconsin Elections Commission has determined that, absent any evidence of an attempt to manipulate the electoral process, candidates are permitted to choose any form of their name, including nicknames, by which they want to appear on the ballot. Wis. Stat. § 8.10(2)(b).
- c. The Wisconsin Elections Commission advises the clerk to consult with the municipal attorney or corporation counsel before making a final decision to allow or not allow the use of the nickname.

The Federal Write-in Absentee Ballot for Military and Overseas Electors

Citizens living overseas and military voters often have difficulty receiving and returning ballots quickly. The Federal Voting Assistance Program (FVAP) has a write-in absentee ballot available on their website (<http://fvap.gov>) for overseas and military electors to complete if they are unable to submit an official ballot. Wis. Stat. § 6.25.

1. The Federal Write-In Absentee Ballot must be accompanied by a completed Declaration/Affirmation which must also include the signature of the elector and the signature of a U.S. citizen witness in order to be counted.
2. The completed and signed Declaration/Affirmation that accompanies the FWAB is also a valid absentee application for a military elector. However, if submitted by an overseas elector, the elector must have submitted a separate absentee request that is received no later than the 5th day before the election in order to count the FWAB.

For further information, please see the “Electors” section of this manual.

Note: Permanent overseas voters may only vote in federal elections and will only receive a ballot for federal offices. Military voters can vote in all elections for all offices. Wis. Stat. § 6.24.

Referendum Ballots

1. For paper ballots:
 - a. A separate ballot is required for referenda.
 - b. Statewide and county referenda can be placed on the same ballot as long as the ballot clearly differentiates between the state and county referenda.
 - c. A separate ballot must be prepared for municipal referenda.
 - d. A separate ballot must be prepared for school district referenda.
2. For optical scan or consolidated ballots:
 - a. There must be a separate REFERENDUM section on the ballot.
 - b. The ballot should clearly differentiate between state, county, municipal, and school district referenda.
 - c. The title of the ballot must include the language “and Referendum.”

Wis. Stats. §§ 5.51(5), 5.60(7), 5.64(2), 5.655 and 7.08(1)(a).

Sample Ballots

1. Two samples of each type of ballot are required to be posted at the polling place on Election Day. Wis. Stat. § 5.35(6)(a) 3.
2. Sample ballots are also required to be available to persons who request them. The number of sample ballots should equal 10% of the total number of official ballots printed. Wis. Stat. § 5.66(2).
3. Sample ballots cannot be printed on white paper. They must be printed on colored paper and the color must be different than the color used for the official ballots. Wis. Stat. § 5.51(5), 5.66(2).

4. The word ‘SAMPLE’ must be overprinted on all sample ballots. Wis. Stat. § 5.66(2).
5. The endorsement does not have to be printed on sample ballots. Wis. Stat. § 5.51(5).

Frequently Asked Questions

1. *For each office, the ballot indicates how many votes can be cast in that office. What is the proper format of that instruction?*

The number of candidates an elector is allowed to vote for, whether at a primary or an election, is the same as the number of officers to be elected. If there is only one position to be filled, such as with the office of Mayor, the instruction is “Vote for 1.” If there are three trustee positions up for election, the instruction is “Vote for not more than 3.” Wis. Stats. §§ 5.52, 7.08(1)(a).

2. *How many write-in lines are required?*

The number of write-in lines required is equal to the number of candidates for which the elector is allowed to vote. If there is only one position to be filled, such as with the office of Mayor, the instruction is “Vote for 1.” Therefore, one write-in line is required. If there are three trustee positions up for election, the instruction is “Vote for not more than 3.” Three write-in lines are required.

3. *In a primary, how many candidates may go on to the general election?*

The number of candidates that proceed from a primary to an election is equal to twice the number of candidates for which the elector can vote. Wis. Stat. § 5.58(3).

Examples:

If the instruction is “Vote for 1,” the two candidates receiving the highest number of votes will appear on the election ballot.

If the instruction is “Vote for not more than 2,” the four candidates receiving the highest number of votes will appear on the election ballot.

If the instruction is “Vote for not more than 3,” the six candidates receiving the highest number of votes will appear on the election ballot.

ELECTORS

Summary

Interactions with electors, both positive and negative, influence the public's confidence in the ability of election officials to administer elections in Wisconsin fairly. As a municipal clerk, it is your duty to ensure that the information provided, material disseminated and any procedure undertaken is correct. In the State of Wisconsin, a qualified elector must be registered to vote before being issued a ballot. A municipal clerk is charged with the responsibility of maintaining records to track voter registration, absentee voting, and voting through the WisVote system.

Voter Qualifications

In order to register to vote, an individual must:

1. Be a U.S. citizen
2. Be age 18 or older on or before Election Day
3. Have resided in an election district or ward for 28 consecutive days, with no present intent to move, before any election where the citizen offers to vote.

Wis. Stat. § 6.02(1).

Residency

An individual's residency in a ward or municipality is determined by the individual's physical presence and present intent to reside in that location for voting purposes. In order to initially claim residency, a voter must establish a physical presence in a location with the intent to make that location their residence for voting purposes.

1. Temporary Presence/Absence
 - a. Residency is not lost when a person leaves "home" and goes to another location temporarily with intent to return "home." Persons who have temporarily left their homes are still residents of the "home" municipality despite their temporary absence. Wis. Stat. § 6.10(5).

- b. Residency cannot be established in any ward, town, village or city in this state while living there for temporary purposes only. Wis. Stat. § 6.10(8).

2. Intent to Return

- a. Once residency is established, a person may be temporarily absent and still be considered a resident, as long as they intend to return. Wis. Stat. § 6.10(5).
- b. A person may end their residency by leaving their residence and doing something that establishes they no longer intend to reside at their old residence (e.g., registers to vote at another address). Such a person cannot continue to vote at their previous residence without re-establishing residency. Wis. Stat. § 6.10(10).

3. Student Status

- a. Student status is not to be used as a factor in determining residence. A student may choose to establish residency in the municipality where they live to attend school or the student may consider their stay in the municipality to be “temporary” and intend to return to their former municipality. Wis. Stat. § 6.10(4), (12).
- b. If a student registers to vote in the municipality where they attend school, the student loses their residency in their prior municipality and must re-establish residency in the prior municipality before they would be eligible to register to vote there in another election. Wis. Stat. § 6.36(1)(d).

4. “Part-time” Residents

- a. A person may only vote in one municipality each election. In order to vote in a municipality, a person with part-time residency in a municipality must intend that their physical presence in the ward or municipality establishes residence for voting purposes. Wis. Stat. § 6.10 (1).
- b. Merely owning property in a municipality is not sufficient to claim residency. A person must have established a physical presence paired with the intent to make that address their permanent residence.

5. New/Former Residents

- a. A person who has not resided in any ward in Wisconsin for at least 28 days should be advised to check with their former state of residence to inquire as to any voting options they may have as former residents of that state. Alternatively, in Presidential elections, new residents of Wisconsin may vote a Presidential-only ballot by submitting a completed Application for Presidential Ballot (EL-141) to either the municipal clerk in the 9 days before the election or to the election inspectors at the polling place for their new address. Wis. Stat. § 6.15(1), (2)(a).
 - i. The voter must also complete an Authorization to Cancel Registration (EL-139), which the clerk must send to the proper election official for the new resident's former municipality.
 - ii. Proof of Residence is required.
 - iii. No voter registration (EL-131) is required. The voter is not registered.
 - iv. Proof of Identification is required.
 - v. The EL-141 may be submitted no earlier than 27 days before the election and shall be received not later than 5:00 p.m. on the day before the election when delivered to the clerk's office.
 - vi. The EL-141 may also be submitted on Election Day at the polling place.

Wis. Stat. § 6.15(2)(a), (b).

- b. If ineligible to qualify as an elector in the state to which they have moved, any former Wisconsin resident may vote a Presidential-only absentee ballot in their former municipality and ward of residence in any presidential election occurring within 24 months of leaving Wisconsin by submitting a completed Application for Absentee Presidential Ballot (EL-140) to their former municipal clerk.
 - i. No voter registration (EL-131) is completed.
 - ii. No proof of residence is required.
 - iii. Proof of identification is required.

- iv. The form must be notarized.
- v. There is no fixed deadline for receipt of the EL-140. The EL-140 must simply be received “in sufficient time for a ballot to be mailed and returned prior to the election.”

Wis. Stat. §6.15(2).

Other Common Residency Scenarios

Voter Situation	Voting Location
Has moved from one ward to another in the same municipality at least 28 consecutive days before an election	In the new ward. Wis. Stat. § 6.02(2).
Has moved from one municipality to another at least 28 consecutive days before an election	In the new municipality. Wis. Stat. § 6.02(2).
Has moved from one ward to another in the same municipality less than 28 consecutive days before an election	In the old ward. Wis. Stat. § 6.10(3).
Has moved from one municipality to another less than 28 consecutive days before an election	In the old municipality. Wis. Stat. § 6.10(3).
Has moved to a different ward, or state temporarily, with intent to return	In the ward or municipality from which they moved. Wis. Stat. § 6.10(8).
Lives in one ward or municipality and conducts business in another	In the ward or municipality where the individual lives. Wis. Stat. § 6.10(6).
Lives in a public or private facility, such as a federal or state institution, county home or hospital, nursing home or group home	In the municipality where the facility is located <i>or</i> in the municipality of residence before entering the facility. Wis. Stat. § 6.10(7m).
Is on active duty as a member of the armed forces serving in the U.S. or overseas	In the municipality or ward of residence before entering the armed services. Wis. Stats. §§ 6.10(6) and 6.24(2).
Is the spouse or dependent of a member of the armed forces	In the ward or municipality of residence of the military elector <i>or</i>

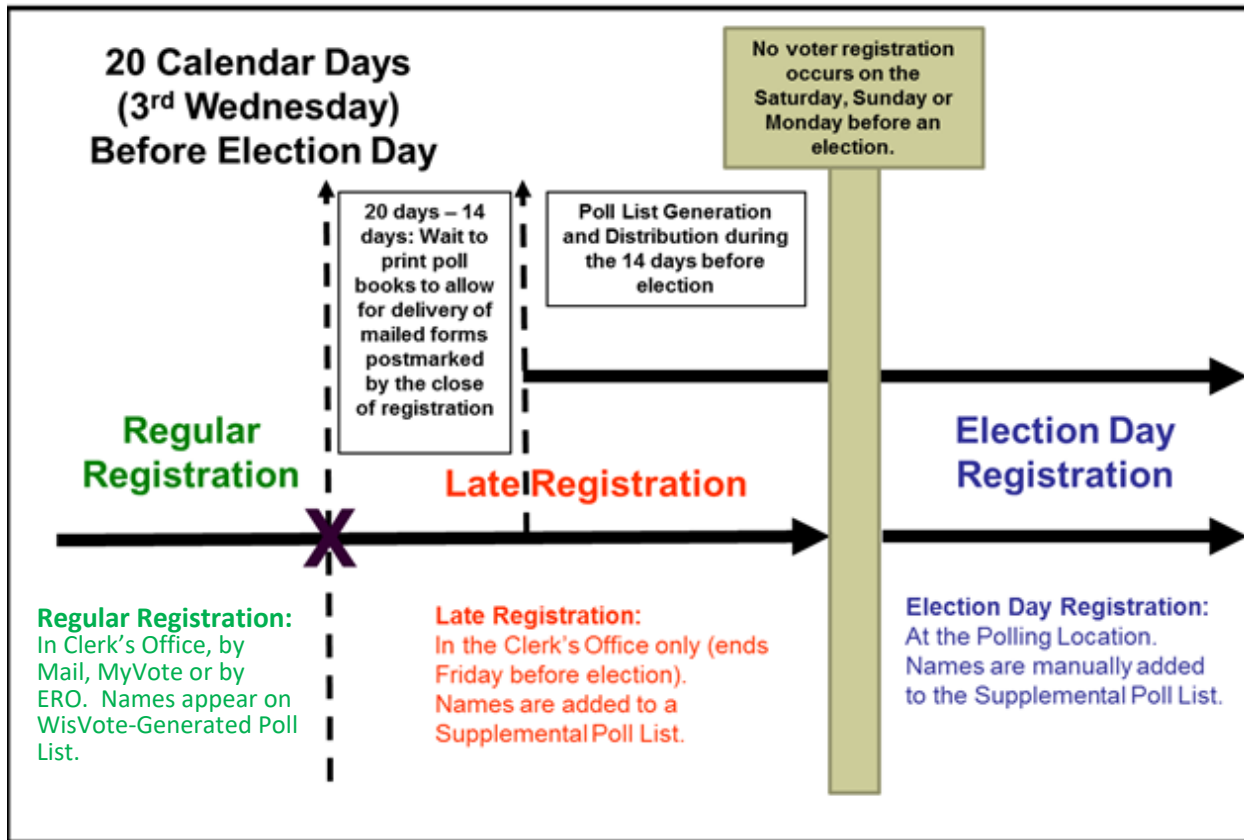
Voter Situation	Voting Location
	if a Wisconsin resident, municipality or ward of residence before entering the armed services. Wis. Stat. § 6.10(13).
Is a civilian overseas employee of the U.S. Government	In the municipality or ward of residence before entry into federal employment. Wis. Stat. § 6.22(2)(a).
Is a U.S. Citizen living outside the United States with no present intent to return	In the municipality or ward where they last resided or where their parent last resided before leaving the United States. Wis. Stat. § 6.24(2).

Disqualification of Electors

The following persons shall not be allowed to vote in any election:

1. Any person convicted of treason, felony, or bribery that has not been pardoned or completed the terms of their sentence including any term of probation, parole, or extended supervision. Wis. Stat. § 6.03(1)(b).
2. A person who has been determined by a court to be incapable of understanding the objective of the elective process or who is under guardianship, unless the court has determined that the person under guardianship is competent to exercise the right to vote. Wis. Stat. § 6.03(1)(a).
 - a. The court order granting guardianship should specifically declare if the person is incompetent to exercise the right to vote. If the order does not include a specific finding of incompetency to vote, the person retains the right to vote.
3. Anyone who has made or become interested, directly or indirectly, in any bet or wager depending upon the result of the election. Wis. Stat. § 6.03(2).

Voter Registration



All electors must be registered before being issued a ballot. There are four methods by which an elector may register to vote:

1. By Mail

- a. The elector must complete and sign a Voter Registration Application (EL-131), enclose a copy of the elector's proof of residence, and mail the completed application to the municipal clerk's office. Wis. Stat. § 6.34(2).
 - i. Wisconsin also accepts the Federal Post Card Application.
 - ii. Registrants who submit incomplete voter registration applications or fail to provide a copy of proof of residence when required should be advised in writing that the registration

is incomplete and how to repair the deficiency. Wis. Stat. § 6.32(2).

1. The EL-132 is a customizable template letter that a clerk should send to a voter who has not submitted proof of residence with their voter registration when required.
 2. Any insufficiency must be mailed no later than the 20th day before the election or delivered in-person no later than 5:00 p.m. the Friday before the election, or the elector can re-register on Election Day at the polls. Wis. Stat. § 6.32(3).
- b. The application must be postmarked no later than the 20th day (which is the 3rd Wednesday) before the election. Wis. Stat. § 6.28(1)(a).
- i. Completed applications delivered to the clerk’s office by an individual other than the registrant are considered delivered “by-mail,” for deadline purposes.
 - ii. A registrant who postmarks their application after the 20th day before the election should be advised in writing that their application cannot be processed until after Election Day. The registrant should also be advised of any remaining opportunities to register to vote in the coming election. Wis. Stat. § 6.32(3).
- c. The clerk or deputy should review the application and the enclosed proof of residence to ensure the application is legible and complete before signing and dating the application.
- d. The Wisconsin Elections Commission will mail a voter verification postcard to the voter’s residential address as listed on the Voter Registration Application. Wis. Stat. § 6.32(4).
2. In the Clerk’s Office:
- a. The elector must sign a completed Voter Registration Application (EL-131) in the presence of the clerk or deputy. Wis. Stat. § 6.55 (2)(c).

- b. The elector must present the clerk or deputy with proof of residence. The clerk or deputy must record the type, issuing entity, and the last few digits of the unique number associated with the proof of residence, if any. If such number is 7 or more digits in length, the last 4 digits must be recorded. If the unique number is 6 or fewer digits in length, only the last 2 digits are required. Wis. Stat. § 6.34(2).
- c. The clerk or deputy should first review the application to ensure the application is legible and complete and then sign and date the completed application.
- d. For all registrations in the clerk's office after the 20th day before the election, the clerk or deputy must issue a Certificate of Registration (EL-133) to the voter, which they should present at the polling place before being issued a ballot. Wis. Stats. §§ 6.55(2)(c)2, 6.29(2)(b).
 - i. The EL-133 is NOT available on the WEC website, but is available upon request.
 - ii. The EL-133 must be issued even if the voter is also voting in-person absentee at the same time.
- e. For all registrations in the clerk's office after the 20th day before the election, the clerk or deputy must review the Ineligible Voter List to confirm that the elector will not be ineligible to vote on the day of the election. Wis. Stat. § 6.29(2)(am).
 - i. If the name of the elector appears on the list, the clerk shall inform the elector that the elector is ineligible to register to vote per Department of Corrections.
 - ii. If the elector agrees that they are ineligible, the registration should be rejected.
 - iii. If the elector maintains that they are eligible to vote in the election, the clerk shall make a reasonable effort to contact the WEC to verify the elector's felony status.
 - 1. If WEC confirms the elector is eligible to vote, the clerk should document on the Voter Registration Application

(EL-131) that they confirmed the voter's status with WEC and then allow the elector to proceed to register to vote.

2. If WEC confirms that the elector is NOT eligible to vote or if the clerk is unable to contact the WEC, the clerk should:

a. Give the elector the Ineligible Voter Information Sheet that explains to the elector what they need to do to resolve the issue with the Department of Corrections.

b. Permit the elector to register to vote, but mark the Voter Registration Application (EL-131) and Certificate of Registration (EL-133) as "ineligible to vote per Department of Corrections."

f. The application must be received no later than 5:00 p.m. on the 5th day before the election (Friday). Wis. Stat. § 6.29(2)(a).

3. At the polling place on Election Day (Election Day Registration)

a. The elector must sign a completed Voter Registration Application (EL-131) in the presence of an election inspector or Election Registration Official. Wis. Stat. § 6.55(2)(b). If the municipality uses Badger Books, the EL-131 is completed electronically on the machine.

b. The elector must present the election official with proof of residence. The election official must record the type, issuing entity, and the last few digits of the unique number associated with the proof of residence, if any. If such number is 7 or more digits in length, the last 4 digits must be recorded. If the unique number is 6 or fewer digits in length, only the last 2 digits are required. Wis. Stats. §§ 6.34(2), 6.15(2)(bm).

c. The election official must review the Ineligible Voter List to confirm that the elector is eligible to vote on the day of the election.

- i. If the name of the elector appears on the list, the election official shall inform the elector that the elector is ineligible to register to vote per Department of Corrections.
- ii. If the elector agrees that they are ineligible, the registration should be rejected.
- iii. If the elector maintains that they are eligible to vote in the election, the election official shall make a reasonable effort to contact the WEC to verify the elector's felony status.
 - 1. If WEC confirms the elector is eligible to vote, the election official should document on the Voter Registration Application (EL-131) that they confirmed the voter's status with WEC and then allow the elector to proceed to register to vote.
 - 2. If WEC confirms that the elector is NOT eligible to vote or if the election official is unable to contact the WEC, the election official should:
 - a. Give the elector the Ineligible Voter Information Sheet that explains to the elector what they need to do to resolve the issue with the Department of Corrections.
 - b. Permit the elector to register to vote but mark the Voter Registration Application (EL-131) as "ineligible to vote per Department of Corrections."
 - c. If the elector wishes to vote, the inspectors shall challenge the ballot (see Election Day Issues, Challenging Voters). Wis. Stat. § 6.29(2)(am).
- d. The election official should first review the application to ensure the application is legible and complete and then sign and date the completed application.
- e. If the clerk's office is in the same building as the polling place, a governing body may by resolution provide that electors who need to

register to vote do so with the clerk rather than in the polling place with election inspectors. Wis. Stat. § 6.55(2)(c).

- i. If this option is used, a notice must be placed in the voting area directing electors who wish to register to come to the clerk's office.
 - ii. The clerk should follow the procedures outlined above for a Clerk's Office registration.
 - iii. In addition to the Certificate of Registration (EL-133), the registrant must also be provided a copy of their signed voter registration application (EL-131) to give the election inspectors in the voting area.
- f. The Wisconsin Elections Commission will mail a voter verification postcard to the voter's residential address as listed on the Voter Registration Application. Wis. Stat. § 6.32(4).

Completing the Voter Registration Application

Proper completion of the Voter Registration Application (EL-131) will ease the process of entering information into WisVote and ensure the voter will appear on the poll list for Election Day. It is the responsibility of the municipal clerk to notify an elector of any insufficiency in their voter registration application within 5 days, if possible. A customizable letter template (EL-132) is available for this purpose. There is an updated version of the EL-131, which this manual will outline. However, any version of the EL-131 should be accepted as long as it contains proper voter information.

Front Side of Voter Registration Application

1. Qualifications

- a. Registrants must be able to check each of the four boxes in this section.
- b. The registrant may be 17 years old if they will be 18 years old by the time of the next election.

2. Your Name

- a. The registrant should provide their full name as it appears on their Wisconsin Driver License or Wisconsin DOT-issued Identification Card, if applicable, and the proof of residence document provided for box 8 on the form.

3. About You

- a. Date of Birth
 - i. Month, day, and year of birth is required. Voters should be encouraged to use all four digits of their year of birth, but if someone writes the last two digits, the application should not be denied.
- b. Contact Information (OPTIONAL)
 - i. Any phone or email address provided is subject to open records requests.

4. The Address Where You Live

- a. This is the voter's address where they vote from, which may be different than their mailing address.
- b. This section will also be used to indicate military or permanent overseas statuses.
 - i. Military – A member of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine of the United States, Peace Corps, the commissioned corps of the Federal Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States, and any spouse or dependents of the above who are residing with or accompanying them.
 - ii. Permanent Overseas – A U.S. Citizen who is not disqualified from voting and is qualified to vote except for residency, but who last resided (or whose parent last resided) in Wisconsin prior to residing outside the United States. Permanent overseas voters should provide the last address in Wisconsin either they or their parent last resided before permanently moving overseas.

5. Your Mailing Address

- a. If the registrant does not receive mail at the residential address, a mailing address should be provided. Failure to provide a valid mailing address may result in the voter registration being inactivated.
- b. Electors residing overseas should provide their complete overseas address where space is available.

6. Prior Registration Information

a. Name Change

- i. A voter is required to update their registration if they change their legal name.
- ii. As it may take some time for a voter to receive proper documentation of their new legal name, a registered voter may continue to vote using their former name until the necessary documentation to re-register is received.

b. Address Change

- i. A registered voter is required to update their registration if they wish to vote from their new residence.

7. Identification

- a. To complete the Voter Registration Application (EL-131), the registrant must provide either a Wisconsin Driver License or Wisconsin DOT-issued Identification Card, or the last four digits of their Social Security Number. This does NOT require visual confirmation by the clerk or an election inspector, and the elector may write down or recite the number if they choose. An elector cannot be required to show their WI Driver License, WI DOT-issued ID card, or Social Security card as a condition of registration, unless it is a document used to provide acceptable proof of residence.
- b. Wisconsin Driver License or Wisconsin DOT-issued ID Card Number
 - i. If the registrant has been issued either a WI Driver License or WI DOT-issued ID Card that is unexpired or cancelled, they must provide the number and expiration date, even if the registrant's driving privileges were revoked or suspended.
 - ii. If the registrant has a WI Driver License or WI DOT-Issued ID Card that is unexpired but does not have the number or

expiration date readily available, they may call DMV at (608) 266-1069, option 1 to look up the information.

- iii. If the registrant has either a WI Driver License or WI DOT-Issued ID Card that is currently expired or cancelled, request the voter provide the identification number if available. The registrant must provide the last 4-digits of the Social Security Number, if any.

c. Social Security Number – Last Four Digits

- i. If the registrant has not been issued a WI Driver License or WI DOT-Issued ID Card or the document is expired or cancelled, the registrant must provide the last 4-digits of their Social Security Number, if any.
- ii. If the registrant does not have either a WI Driver License or WI DOT-Issued ID Card and has not been issued a Social Security Number, they may indicate this by checking the box signifying they have none of these documents.

8. Proof of Residence

- a. The registrant will affirm that they are providing a valid form of proof of residence with this application. The document must list the voter's complete name and Wisconsin residential address.
 - i. Some examples include a copy of their WI Driver License or WI DOT-Issued ID Card, a utility bill, any government-issued document, a paycheck, or a bank or credit card statement.
- b. Military and Permanent overseas voters do not need to provide a proof of residence document.

9. Signature and Certification

- a. The registrant should read this language before certifying that they are an eligible elector and have resided in the ward for at least 28 days.
- b. They will provide their signature and the date they are signing.

10. Assistant

- a. If the registrant required another person to complete this form on their behalf due to a physical disability, the assistant should sign and provide their residential address here. Wis. Stat. § 6.82(2)(d).

11. Official Use Only Section

- a. The election official receiving the application (clerk, election inspector, ERO) should review the proof of residence.

At the top of the section, the official will circle the Proof of Residence type.

Wis. Stat. § 6.34.

- i. WI DL – Wisconsin-Issued Driver License.
- ii. WI ID – Wisconsin DOT-Issued Identification Card.
- iii. UTIL – Any form of utility bill, including cell phone, cable, electric, gas, and water. Must be dates no more than 90 days prior to the date the registrant submits the document.
- iv. BANK/CC – A bank or credit card statement, including retail credit card statements and mortgage statements. An offer to open a credit card is NOT an acceptable Proof of Residence document.
- v. PYCK – Paycheck or Paystub.
- vi. STDNT ID – A student ID that includes a photo (address not required). The registrant must provide either:
 1. A fee payment by the university, college, or technical college dated no earlier than 9 months before the date of election. The fee payment receipt must include the name and address of the student.
 2. A certified and current list of students who reside in housing sponsored by the university, college, or technical college. This list should be provided by the university, college or technical college, and the election official will verify the name of the student on the ID is included on the list.
- vii. GOV DOC – Any government-issued document.
 1. Examples include (not an exhaustive list):
 - a. Vehicle Registration
 - b. BadgerCare/Medicare statements (if issued by gov't agency)

- c. Social Security statements (if issued by gov't agency)
 - d. Public school correspondence.
 - e. Tribal ID or tribal-issued document
 - f. Change of address from USPS
 - g. Federal student loan notices (if issued by gov't agency)
 - h. Mail from government-owned medical facilities, such as UW Hospitals and Clinics, VA Hospitals, county-owned clinics
- viii. LSE – a residential lease containing the landlord name, tenant name, address subject to lease, term, rent, landlord signature, and tenant signature (may not be used to register by mail).
- ix. GOV ID – any other identification card or license issued by a Wisconsin governmental body or unit.
- x. EMPL ID – An identification card issued by an employer in the normal course of business and bearing a photo of the card holder, but not including a business card.
- xi. RES CARE – a contract or intake document from an occupant of a residential care facilities that specifies the occupant currently resides in the facility.
- xii. TAX – A real estate tax bill or receipt for the current year or the year preceding the date of the election.
- xiii. HMLSS – A signed letter on public or private social security agency letterhead identifying a homeless voter and describing the individual's residence for voting purposes.
- b. Proof of Residence Issuing Entity
 - i. WI DMV, MG&E, WE Energies, etc.
- c. Proof of Residence Number, if any
 - i. If the unique number associated with the proof of residence is 7 or more digits in length, the last 4 digits should be recorded here.
 - ii. If the unique number associated with the proof of residence is 6 or fewer digits in length, only the last 2 digits are recorded here.

- d. Date Complete/POR Received
 - i. If the application is complete and the proof of residence is acceptable (see below), the election official who received the application (ERO, clerk or election inspector) should date it.
 - ii. If the application is received via mail, the clerk should date it after reviewing it for completeness and legibility.
- e. Election Day Voter Number
 - i. If registering on Election Day, the voter will be issued a voter number. This number should also be recorded on the supplemental poll list.
- f. WisVote ID #
 - i. This number is only provided once the registration has been entered in WisVote and the voter has become registered.
- g. Confidential Elector ID #
 - i. If the registrant has registered through the confidential elector process, they will be issued a number that should be listed here.
- h. Submitted by mail
 - i. If registrant mailed their voter registration application, check this circle.
- i. Official's signature
 - i. The election official first receiving the application (ERO, clerk, election inspector) should review the form for completeness and legibility before signing.
 - ii. If the application is incomplete or illegible, the election official should not sign the form.
 - 1. If the registrant is still available, ask the registrant to complete the missing information or print more clearly.
 - 2. If the registrant is no longer available, the election official should submit this form to the clerk with a note explaining the deficiency.
 - 3. The clerk should contact the registrant within 5 days of receipt of any incomplete or illegible applications.

iii. If the application is being received after the 20th day before the election or on Election Day, the election official must also check the Ineligible Voter List before signing (see respective registration procedures above).

j. Bottom Row

- i. Ward
- ii. Sch. District
- iii. Alder
- iv. City Supr.
- v. Ct. of App
- vi. Assembly
- vii. St. Senate
- viii. Congress

Back Side of Voter Registration Application

1. If the registrant resides somewhere without a designated address, the registrant should use the map in box 4 on the backside to diagram where they reside in relation to known streets or landmarks.
2. If the registrant needs accommodations at their polling place (curbside voting, braille materials, etc.), they should make those requests on the bottom of the application.
3. If the registrant is interested in being a poll worker, they should indicate in the checkbox on the bottom of the application.

Wis. Stat. § 6.33(1). EL 3.10(2).

Proof of Residence

Everyone (except military and permanent overseas electors) who wishes to register to vote or update their voter registration must present a proof of residence document to prove that the person resides at the address listed on the Voter Registration Application (EL-131). If the person is registering in-person with an

election official, they do not need to provide a copy of the document; they may simply show it to the election official. Electronic versions are also acceptable. The document must contain the voter's current and complete name and current and complete Wisconsin residential address. If the document has an expiration date, it must not be expired on the day registration is made. Note that some documents do not have an expiration date and are still considered valid.

The following documents constitute acceptable proofs of residence:

1. An unexpired Wisconsin Driver License or receipt for license, even if driving privileges were revoked or suspended.
2. An unexpired Wisconsin DOT-issued Identification Card or receipt for identification card.
3. Any other official identification card or license issued by a Wisconsin governmental body or unit, unless otherwise prohibited by state law.
4. Any identification card issued by an employer in the normal course of business and bearing a photo of the card holder, but not including a business card.
5. A real estate tax bill or receipt for the current year or the year preceding the date of the registration.
6. A residential lease (NOT for voters registering by mail).
 - a. A residential lease should contain:
 - i. Landlord Name
 - ii. Tenant Name
 - iii. Address Subject to Lease
 - iv. Term
 - v. Rent
 - vi. Landlord Signature
 - vii. Tenant Signature
7. A university, college or technical institute identification card (must include photo, address not required) with one of the following:
 - a. A fee payment receipt issued to the cardholder by the university, college, or technical college dated no earlier than 9 months before the date of the election.

- b. A certified and current list of students who reside in housing sponsored by the university, college, or technical college.
 - i. This list should be provided by the university, college, or technical college and the election official must verify that the student presenting the card is included on the list.
- 8. A utility bill (gas, electric, water, sewer, telephone/mobile, cable/satellite TV, internet, etc.) for the period commencing not earlier than 90 days before Election Day.
- 9. Bank statement. This includes:
 - a. A bank statement issued by a bank or credit union
 - b. A mortgage statement issued by a bank or credit union
 - c. A home equity credit line statement issued by a bank or credit union
 - d. A credit card statement issued by a bank or credit union
 - e. A retail store credit card statement
- 10. Paycheck or paystub documentation of direct deposit.
- 11. A check or other document issued by a unit of government.
 - a. Units of government include: federal, state, county, municipal, school district, tribal, etc., both foreign and domestic.
 - b. Examples of government documents (not an exhaustive list):
 - i. Vehicle registration
 - ii. BadgerCare/Medicare statements (if issued by gov't agency)
 - iii. Social Security statements (if issued by gov't agency)
 - iv. Public school correspondence
 - v. Federal student loan notices (if issued by gov't agency)
 - vi. Change of Address letter from the U.S.P.S.
 - vii. Government-owned medical facilities, such as UW Hospitals and Clinics, county-owned health care clinics and VA Hospitals
- 12. A signed letter on public or private social service agency letterhead identifying a homeless voter and describing the individual's residence for voting purposes.

13. A contract or intake document from an occupant of a residential care facility that specifies that the occupant currently resides in the facility. A room number is not required.

Wis. Stat. § 6.34.

Electronic Proof of Residence

1. Otherwise valid proof of residence documents presented electronically on a device such as a laptop, smartphone, or tablet are acceptable for voter registration purposes.¹
 - a. The standard of review should be the same whether the document is physically presented to an election official or viewed in an electronic format.
 - b. Election officials may NOT reject an otherwise valid proof of residence merely because it is in an electronic format.
 - c. If the proof of residence is presented using the registrant's electronic device, the election official may ask the registrant to expand the size of the type or image, or otherwise navigate the document or image so that the election official may view any required information (i.e., name of the registrant, address, account number, date, type of document, and issuing entity or institution).
 - d. If the document is not readable in the format presented or the election official is otherwise unable to determine that it constitutes a valid proof of residence, the election official may reject the document and require the registrant to present another form of proof of residence.
2. Election officials are not required to provide computers or Internet access for voters to use to obtain electronic copies of proof of residence to facilitate voter registration. It is the responsibility of the registrant to show or provide a copy of their proof of residence.

¹ On August 28, 2012, the G.A.B. voted unanimously to allow electronic versions of acceptable proof of residence during the voter registration process.

3. Election officials are not required to handle a registrant’s electronic device but may do so with the registrant’s permission.

Military and Overseas Voter Registration Requirements

Military and permanent overseas voters are subject to special procedures for voter registration and are the only types of voters that are not required to provide proof of residence. Temporary overseas voters are required to provide proof of residence. All military and overseas voters and any absentee ballots issued to them must be tracked in the Statewide Voter Registration System (WisVote).

1. Military Electors (applies only to absentee voting)

- a. A “military elector” is a member of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine of the United States, Peace Corps, the commissioned corps of the Federal Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States, and any spouse and dependents of the above who are residing with or accompanying them. Wis. Stat. § 6.22(1)(b).
- b. Military electors, under state law, are not required to register to vote when voting absentee. Clerks practically must still obtain sufficient information to enter a military elector into WisVote. Wis. Stat. § 6.22(3).

This information can be obtained from the Federal Post Card Application (FPCA) form, which serves as both a voter registration application and an absentee ballot request. Therefore, by requesting an absentee ballot, a military elector practically undergoes registration. It is important to note, however, that under the law, military electors are not required to register to vote. Wis. Stat. § 6.22(2)(4)c.

2. Permanent Overseas Electors

- a. A permanent overseas elector is a United States citizen, 18 years or older, who resided (or whose parent resided) in Wisconsin before leaving the United States, and who is now living outside the U.S. with

no present intent to return, and not registered to vote in any other location.

- b. Permanent overseas electors must register to vote during open registration. An overseas elector may use the Federal Post Card Application (FPCA) form which serves as both a voter registration application (during open registration) and an absentee ballot request for overseas electors.

The Federal Post Card Application (FPCA), also known as Standard Form 76 (SF 76), is a postage-free postcard, printed and distributed by the U.S. Department of Defense – Federal Voting Assistance Program (FVAP) for use by absentee voters covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The FPCA is a combination registration form and absentee ballot request. The online version of the FPCA can be obtained from the FVAP website at <http://www.fvap.gov>. Wis. Stat. § 6.24(3).

Permanent overseas electors are NOT required to provide proof of residence. Wis. Stat. § 6.22(3).

3. Temporary Overseas Electors

- a. A temporary overseas elector is a United States citizen, 18 years or older, who at the time of the request resides overseas but qualified as a Wisconsin resident, has an intent to return to Wisconsin and is not registered to vote in any other location.
- b. Temporarily overseas electors must register to vote during open registration. An overseas elector may use the Federal Post Card Application (FPCA) form which serves as both a voter registration application (during open registration) and an absentee ballot request for overseas electors.

The Federal Post Card Application (FPCA), also known as Standard Form 76 (SF 76), is a postage-free postcard, printed and distributed by the U.S. Department of Defense – Federal Voting Assistance Program (FVAP) for use by absentee voters covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The FPCA is a combination registration form and absentee ballot request. The online

version of the FPCA can be obtained from the FVAP website at <http://www.fvap.gov>. Wis. Stat. § 6.24(3).

Temporarily overseas electors ARE required to provide proof of residence.

Confidential Electors

Electors who are victims of domestic abuse, sexual assault, or stalking have the option to be listed confidentially on poll lists.

Eligibility

An individual is eligible for a confidential listing in the poll list if the person:

1. Has been granted a protective order that is in effect related to either domestic abuse or harassment.
2. Is a victim of domestic abuse, sexual assault, or stalking where a person has been charged with or convicted of such an offense and the victim reasonably continues to be threatened by that individual.
3. Resides in a shelter.
 - a. “Shelter” means a place where at least 4 unrelated individuals reside that provides residential shelter to individuals whose personal security is or may be threatened by family members or other persons with whom the individuals have had contact.
4. Received services from a domestic abuse or sexual assault victim services provider within the last 24 months.
 - a. The WEC regularly receives lists of eligible domestic abuse or sexual assault victim services providers. Please contact the WEC Help Desk for a copy of the list.

Wis. Stat. § 6.47(1).

Request for Confidentiality

An eligible person may request a confidential listing by submitting a written request or Request for Confidential Listing (EL-146) to their municipal clerk along with one of the following:

1. A copy of a protective order that is still in effect.
2. A completed Affidavit of Sheriff, Chief of Police, or District Attorney (EL-147), dated within 30 days of the date of the request.
3. A statement signed by the operator or an authorized agent of the operator of a shelter that is dated within 30 days of the date of the request, which indicates that the operator operates the shelter and that the individual making the request resides in the shelter.
4. A statement signed by an authorized representative of a domestic abuse victim service provider or a sexual assault victim service provider that is dated within 30 days of the request.
5. Confirmation from the Department of Justice that the requester is a participant of the *Safe at Home* program.

An individual with physical disabilities who appears personally at the clerk's office and accompanied by another elector of Wisconsin may designate the other elector to make a request for confidentiality on their behalf.

Wis. Stat. § 6.47(2).

A confidential elector must still register to vote the same as any other elector.

If the individual provides the necessary documentation to obtain a confidential listing, the clerk issues an Identification Card of Protected Individual (EL-148) to the protected individual and notes the identification serial number on the voter registration form in the space provided. The ID serial number is the HINDI number assigned to the municipality plus a sequential number e.g., "13251-01." Note: The Identification Card of Protected Individual (EL-148) is not available on the WEC website and can only be obtained by contacting the Wisconsin Elections Commission. Wis. Stat. § 6.55(2)(3)cm.

Polling Place Procedure

1. The confidential portion of the poll list will appear at the end of the poll list as a separate section containing the name of each confidential voter and their confidential voter identification number.

- a. The confidential portion of the poll list is NOT open to public inspection. Wis. Stats. §§ 6.87(6m), 6.47(2).
 - b. The municipal clerk may, upon request, disclose the existence of the list, the number of electors whose names appear on the list, and the number of those electors who have voted at any point in the proceedings. Wis. Stat. § 7.41(4).
2. The confidential voter presents their confidential voter identification card instead of announcing their name at the polling place. Wis. Stat. § 6.79(6).
 3. The confidential voter must still sign the poll list before being issued a ballot.
 4. If voting by absentee ballot, the confidential elector provides their name and confidential elector identification number on the absentee certificate envelope. The confidential elector must still sign and have a witness sign the certificate envelope.

Recordkeeping

1. The confidential elector's voter registration should be kept in a separate confidential file, ordered alphabetically by confidential elector name. Wis. Stat. § 6.35(1m).
2. Confidential listings expire when any of the following occur:
 - a. When the protective order expires. Wis. Stat. § 6.47(4)(a).
 - b. When the confidential elector no longer resides in a shelter. Wis. Stat. § 6.47(4)(a).
 - c. When updated information is received from a sheriff, chief of police, or district attorney that indicates the person is no longer qualified for a confidential listing. Wis. Stat. § 6.47(5)(a)1.
 - d. 24 months have passed since the creation/renewal of the confidential listing. Wis. Stat. § 6.47(4)(a).
 - e. The voter changes their name or address. Wis. Stat. § 6.47(5)(a) 2, 3.

3. When a confidential listing expires, the clerk shall change the registration of the confidential elector to inactive unless the confidential elector files a new request for a confidential listing or applies and qualifies for a non-confidential voter registration. Wis. Stat. § 6.47(6).
 - a. Inactive confidential voter registrations must be kept confidential until destroyed under Wis. Stat. § 7.23(1)(c).
4. If the municipal clerk has notice that a confidential listing is scheduled to expire (end of the 24-month period), the clerk shall provide 30 days' notice to the confidential elector of the scheduled expiration of the listing. Wis. Stat. § 6.47(7)(a).
 - a. If advance notice is not possible, the clerk shall notify the confidential elector upon changing their voter registration to inactive. Wis. Stat. § 6.47(7)(b).

Document Retention Requirements

All voter registration forms are retained for four years after a voter has been inactivated or cancelled in the statewide voter registration system (WisVote). There is no need to notify an elector when the physical form is destroyed. Voter notification occurs at the point of inactivation in WisVote. Mailings (and details regarding which situations require elector notification) can be generated by or in conjunction with WisVote. Voters are only cancelled when deceased or confirmed as registering out of state. A mailing is not required for cancelled voters.

Absentee Voting

A qualified elector who is unable or unwilling to appear at the polling place on Election Day may vote by absentee ballot. Wis. Stat. § 6.85(1).

General Application Requirements

Registered electors wishing to vote absentee must submit an absentee ballot request in writing to the municipal clerk.

A registered elector may either apply for an absentee ballot using the Application for Absentee Ballot (EL-121) form or submit a written request, as long as the

request includes all the information necessary to provide the voter with an absentee ballot.

The written request must include the elector's:

1. Name
2. Residential address
3. Mailing address, if different than residential address
4. Signature
5. Proof of identification, if necessary

State law provides that an absentee ballot request submitted by a voter via fax or email does not have to contain the signature of the voter to be valid. The voter's signature on the absentee certificate envelope satisfies the signature requirement. Wis. Stat. § 6.86(1)(ac).

Once provided with a by mail application, the elector is exempt from subsequent proof of identification requirements for by mail voting until they change their name or address. Wis. Stat. § 6.87(4)(b)(3).

If an absent elector does not indicate the desired duration of the absentee ballot request, the clerk should presume the request is only for a single election.

Powers of Attorney (POA)

A Power of Attorney (POA) may submit an absentee request on behalf of their principal. However, a POA may NOT vote the ballot for their principal. A POA may serve as an assistant in all the same ways that any person may serve as an assistant (voter registration, completing the ballot, etc.) if the voter so requests. Wis. Stats. §§ 6.86(1)(a)(3), 6.86(3).

By Mail Requests

1. Any registered elector may submit their absentee ballot request by mail.

- a. If absentee ballots are currently available, the municipal clerk must send the absent elector a ballot within one business day of receiving the request.
 - b. If an absentee request is delivered by a person other than the registered elector (spouse, campaign volunteer, etc.) it is treated as a by mail request.
 - c. The deadline to receive a request by mail is:
 - i. Regular electors have until 5:00 p.m. on the 5th day (Thursday) preceding the election. Wis. Stat. § 6.86(1)(b).
 - ii. Most military and indefinitely confined electors have until 5:00 p.m. on the 4th day (Friday) preceding the election to make a request. Wis. Stat. § 6.86(1)(c).
 - iii. Hospitalized and sequestered juror electors have until 5:00 p.m. on Election Day to make a request. Wis. Stat. § 6.86(1)(b).
 - iv. Members of a uniformed service or the Merchant Marine of the United States (and their spouse and dependents) who are away from their primary residence due to active duty have until 5:00 p.m. on Election Day to request an absentee ballot. (Federal elections only). Wis. Stat. § 6.86(1)(c).
2. Registrants who submit an absentee ballot request by mail and fail to provide a copy of proof of identification when required should be advised in writing that a ballot will not be mailed to the voter until their ID is submitted.
- i. The EL-127 is a customizable template letter that a clerk should send to a voter who has not submitted proof of identification with their absentee ballot request when required.
 - ii. Any insufficiency must be received by the clerk no later than 5:00 p.m. on the 5th day (Thursday) preceding the election or delivered by the voter no later than the close of in-person absentee voting in the clerk's office before the election or the elector can vote on Election Day at the polls.

Facsimile and Email Requests

1. Any registered elector may make a written application for an absentee ballot by means of fax or email.
 - a. Fax or email requests do NOT need to contain a copy of the applicant's original signature.
 - b. The municipal clerk must act on the fax or email request within one business day of receiving the request.
2. Facsimile and email requests otherwise follow the rules for by-mail requests, including providing proof of identification, if required.

Wis. Stat. § 6.86(1).

Absentee Ballot Certificate Envelopes (EL-122, EL-122M, EL-122SVD, EL-122SP)

There are four variations of the Absentee Ballot Certificate Envelope:

1. EL-122 Standard Absentee Certificate Envelope, used in most situations.
2. EL-122M Absentee Certificate Envelope, used for military and permanent overseas voters.
3. EL-122SVD, used for absentee voting conducted by Special Voting Deputies in residential care facilities and retirement homes.
4. EL-122SP, used for voters in SVD-eligible facilities that are not served by SVDs.

Overview of the Absentee Certificate Envelope

Step 1: The clerk or voter must complete the voter information section. The information can be provided using a label or handwritten.

Official Absentee Ballot Certificate & Application

CLERK OR DEPUTY >> Initial Here >>

In-person absentee voter showed valid POI _____

Voter exempt from or met POI requirement _____

STEP 1 **CLERK OR VOTER must complete this part**

Voter Information

City Name:
 Village Name:
 Town Name:

Election Date (mm/dd/yyyy) _____

Name (Last, First, Middle) _____

Street Address _____

County _____ City _____

State _____ Zip _____ Ward _____ Ald. Dist _____

Step 2: The voter must complete the certification section by signing where highlighted. If the voter needed assistance signing their name to the certification, the assistor signs the voter's name and signs their own name below in the assistor's field.

STEP 2 **VOTER must complete this part**

I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that:

- I am a resident of the ward or of the aldermanic district of the municipality in the county of the state of Wisconsin indicated hereon **OR** I am entitled to vote in the ward or aldermanic district at the election indicated hereon
- I am not voting at any other location in this election
- I am unable or unwilling to appear at the polling place in the ward on Election Day, or I have changed my residence within the state from one ward to another less than 28 days before the election
- I displayed the ballot unmarked to the witness and in the presence of no other person marked the ballot and enclosed and sealed it in this envelope in a manner that no one but myself and an assistant under s. 6.87 (5), if I requested assistance, could know how I voted
- I requested this ballot and this is the original or a copy of that request

X

Voter Signature

Certification of Assistant (If applicable)
 I certify that the voter is unable to sign their name due to a disability and that I signed the voter's name at the direction and request of the voter


Assistant Signature _____

=

Step 3: The witness must complete this section by signing and printing their name and providing their address (street number, street name and municipality).

STEP 3 WITNESS must complete this part

I the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that:



- I am an adult U.S. citizen
- The above statements are true and the voting procedure was executed as stated
- I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk).
- I did not solicit or advise the elector to vote for or against any candidate or measure

X

Witness Signature

Witness Printed Name

Witness Address (Number, Street Name, City)

Absentee Certificate Envelope for Other Categories of Absentee Voters EL-122M for Military and Permanent Overseas Voters. In step 2 of this envelope, voters must include their date of birth. The witness is required to be an adult but does not have to be a U.S. citizen.

STEP 2 VOTER must complete this part

I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that:

- I am a resident of the ward or of the aldermanic district of the municipality in the county of the state of Wisconsin indicated hereon **OR** I am entitled to vote in the ward or aldermanic district at the election indicated hereon
- I am not voting at any other location in this election
- I am unable or unwilling to appear at the polling place in the ward on Election Day, or I have changed my residence within the state from one ward to another less than 28 days before the election
- I displayed the ballot unmarked to the witness and in the presence of no other person marked the ballot and enclosed and sealed it in this envelope in a manner that no one but myself and an assistant under s. 6.87 (5), if I requested assistance, could know how I voted
- I requested this ballot and this is the original or a copy of that request

X

Voter Signature

Date of Birth / /
(mm/dd/yyyy)

Certification of Assistant (If applicable)
I certify that the voter is unable to sign their name due to a disability and that I signed the voter's name at the direction and request of the voter

Assistant signature

EL-122SVD for use by Special Voting Deputies conducting absentee voting in residential care facilities and retirement homes. In step 3 of this envelope, the signatures and addresses of both SVDs are required in the witness section.

STEP 3 SVD must complete this part

I the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that:

- I am an adult U.S. citizen
- I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk).
- I did not solicit or advise the elector to vote for or against any candidate or measure.
- I further certify that the name and address of the voter is correct as shown

X	X
Deputy #1 Signature	Deputy #2 Signature
Deputy #1 Printed Name	Deputy #2 Printed Name
Deputy #1 Address (Number, Street Name, City)	Deputy #2 Address (Number, Street Name, City)

EL-122SP for use by voters residing in SVD-eligible care facilities and retirement homes not served by SVDs. In step 4 of this envelope, the authorized representative of the care facility signs this section or the voter includes photo ID. The care facility representative may also serve as the witness.

STEP 4 CARE FACILITY REP. must complete this part

I certify I am an authorized representative of the facility listed. I further certify that this facility is registered or certified as required by law, that the above voter is a resident, and I verify that the name and address of the voter described above are correct.

X

Care Facility Authorized Representative Signature

Name of Facility

In Person Requests

1. In person absentee voting in the clerk's office or another designated absentee voting location may not begin any earlier than 14 days before an election. In-person absentee voting may not take place the Monday before an election.

The clerk must specify in the Type E Notice the hours during which they will be available to receive in person absentee requests. Wis. Stat.

§ 6.855(2).

2. Proof of identification must be presented. The clerk must initial the absentee certificate envelope indicating that the clerk has viewed acceptable proof of identification. Proof of identification must be presented by an elector each time they vote in person absentee in the clerk's office.

Wis. Stat. § 6.86(1)(ar).

3. The applicant does not need to fill out a separate written request if they only wish to vote absentee for the current election. The absentee certificate envelope doubles as an absentee request and certification when completed in person in the clerk's office.
4. Before issuing the ballot, the clerk must review the Ineligible Voter List to confirm that the elector is eligible to vote on the day of the election.
 - a. If the name of the elector appears on the list, the clerk shall inform the elector that the elector is ineligible to vote per Department of Corrections.
 - b. If the elector agrees that they are ineligible, the absentee application should be rejected and the voter registration inactivated.
 - c. If the elector maintains that they are eligible to vote in the election, the clerk shall make a reasonable effort to contact the WEC to verify the elector's felony status.
 - i. If WEC confirms the elector is eligible to vote, the clerk should document on the Absentee Ballot Log (EL-124) that they confirmed the voter's status with WEC and then allow the elector to proceed to vote.

- ii. If WEC confirms that the elector is NOT eligible to vote or if the clerk is unable to contact the WEC, the clerk should:
 1. Give the elector the Ineligible Voter Information Sheet that explains to the elector what they need to do to resolve the issue with the Department of Corrections.
 2. Permit the elector to vote, but mark the Absentee Certificate Envelope (EL-122) as “ineligible to vote per Department of Corrections.”

Wis. Stat. § 6.29(2)(am).

- d. On Election Day, the inspectors shall review the Ineligible Voter List and challenge the ballot if the name of the elector appears on the list and the clerk provides no contrary information (see Election Day Issues, Challenging Voters). Wis. Stat. § 6.92(1).
 5. The absentee ballot is marked by the absent voter, and sealed in an Absentee Ballot Certificate Envelope (EL-122). The Absentee Ballot Certificate Envelope (EL-122) is completed and signed by the absentee voter, and witnessed by the municipal clerk or designated staff. The witness must sign their name and office address. Wis. Stat. § 6.86(1)(b).
 6. The ballot may not be taken from the clerk’s office. Wis. Stat. § 6.87(3)(a).
- 7.

Proof of Identification

1. Subject to limited exceptions (see below), absentee electors are required to provide proof of identification with their absentee application. Wis. Stat. § 6.86(1)(ac).

Note: The limited exceptions to the identification requirement listed below do NOT apply to electors voting in the clerk's office or the polling place. All electors who vote in the clerk's office or the polling place must present acceptable proof of identification at that time. The only exception is confidential electors. Wis. Stat. § 6.86(1)(ar).

- a. Proof of identification is limited to one of the following:
 - i. A Wisconsin Driver License, even if driving privileges are revoked or suspended; can be expired but only since the last General Election.
 - ii. A Wisconsin DOT-issued Identification Card; can be expired but only since the last General Election.
 - iii. A Military ID card issued by a U.S. uniformed service; can be expired but only since the last General Election.
 - iv. A U.S. passport; can be expired but only since the last General Election.
 - v. A certificate of naturalization that was issued not earlier than two years before the date of an election at which it is presented.
 - vi. An unexpired WI Driver License receipt.
 - vii. An unexpired Wisconsin DOT-Issued Identification Card receipt.
 - viii. An identification card issued by a federally recognized Indian tribe in Wisconsin.

- ix. An identification card issued by a Wisconsin-accredited university, college or technical college.
- x. The card must contain the following:
 - 1. Student's name
 - 2. Student's photograph
 - 3. Date of issuance
 - 4. Signature of student
 - 5. Expiration date no later than two years after date of issuance
 - a. A school ID card does not have to include a proof of enrollment document if unexpired.²
 - b. If the school ID card is expired, it must be presented with a proof of enrollment document.³
 - c. Proof of enrollment documents include, but are not limited to, a fee receipt, class schedule or an enrollment verification form.
- xi. An unexpired Veterans Affairs ID Card
- xii. A temporary identification card receipt issued by Wisconsin DOT through the Identification Petition Process (IDPP) (valid for 60 days).

Wis. Stat. § 5.02(6m).

² On July 29, 2020, the 7th Circuit Court of Appeals issued its mandate in the *One Wisconsin* decision and determined that students who present a qualifying unexpired student ID as proof of identification are not required to also provide a proof of enrollment document to meet the requirement. However, if a student presents a qualifying expired student ID as proof of identification, they must then provide a proof of enrollment document to meet the requirement.

³ IBID

- b. The following groups may meet the proof of identification requirement by having another person certify the voter's identity on the absentee ballot certificate envelope instead of providing proof of identification with their application (Please refer to the "Special Categories of Absentee Voters" section below):
 - i. Indefinitely Confined Electors. Wis. Stat. § 6.87(4)(b)2.
 - ii. Electors residing in a facility served by Special Voting Deputies Wis. Stat. § 6.87(4)(b)5.
 - iii. Electors residing in a facility eligible for service by Special Voting Deputies (SVDs) but were not served by SVDs. Wis. Stat. § 6.87(6)(c).
- c. The following groups are exempt from the proof of identification requirement when voting via absentee ballot by mail, by email or fax:
 - i. Military electors. Wis. Stat. § 6.86(1)(ac).
 - ii. Permanent Overseas electors. Wis. Stat. § 6.86(1)(ac).
 - iii. Confidential electors. Wis. Stat. § 6.86(1)(ac).
 - iv. Electors who have previously provided proof of identification with a by-mail absentee request and have not re-registered. Wis. Stat. § 6.87(4)(b)3.

General Procedures

- 1. As soon as official ballots are available and within one business day of receiving any subsequent requests, the clerk must send the official absentee ballot to all approved absentee ballot applicants. Wis. Stat. § 7.15(1)(cm).
 - a. An absentee application is considered received when it is delivered to the clerk's mailbox/email/fax machine. Clerks must check every day they have normal office hours for absentee applications and have a one business day turnaround time to send an absentee ballot to the voter.

- b. The clerk initials the certificate envelope indicating that proof of identification has been provided before sending the absentee ballot in the following situations:
 - i. A copy of the proof of identification has been provided with the application or a previous application by mail, email or fax. Wis. Stat. § 6.86(1)(ar).
 - ii. The elector is an indefinitely confined elector and the completion of the certification of witness will satisfy the proof of identification requirement. Wis. Stat. § 6.87(4)(b)2.
 - iii. The voter is a military, permanent overseas or confidential elector. Wis. Stat. § 6.34(2).
 - iv. The elector is served by Special Voting Deputies.
 - 1. The clerk initials the envelope after ensuring that both SVDs have signed the Certification of Witness section on the certificate envelope. Wis. Stat. § 6.87(4)(b)5.

c. When the elector resides in an SVD-eligible facility not served by SVDs and has not applied as an indefinitely confined voter, the clerk checks the box indicating that proof of identification must be enclosed in the absentee certificate envelope or the “Certification of Care Facility Authorized Representative” section is completed on the EL-122SP. Wis. Stat. § 6.87(4)(b)5.

e.d. [Section 6.87\(5\) requires the authorized representative to certify that the facility or home is certified or registered as required by law. The certification language approved by the Commission on the EL 122 Special states: “I certify I am an authorized representative of the facility listed. I further certify that this facility is registered or certified as required by law...”](#)

[The Commission accordingly recommends that clerks provide the name of the care facility on the certificate before sending it to the voter to avoid a scenario where the authorized representative fails to include it on the certificate. If the clerk is a WisVote user, the name of the care facility should be input into Line 1 of the address field so that it can be generated on the sticker used for this certificate envelope. If](#)

the clerk is not a WisVote user, the clerk should write the name of the care facility on the first line of the address field on the certificate envelope.

If the “Name of Facility” field is nonetheless blank when a clerk or election inspector receives the voted ballot back from the voter, see “Voter Correction of Incomplete Absentee Certificate Envelopes” on page XX.

d.e. Before issuing an absentee ballot, the clerk must review the Ineligible Voter List to confirm that the elector is eligible to vote on the day of the election.

- i. If the name of the elector appears on the list, the clerk shall:
 1. Make a reasonable effort to verify the elector’s felony status with the WEC.
 - a. If the WEC confirms the elector is eligible to vote, the clerk should document this on the Absentee Ballot Log (EL-124).
 - b. If the WEC confirms the elector is not eligible or the WEC cannot be contacted, continue below.
 2. Cancel the elector’s absentee application.
 3. Cancel the elector’s registration.
 4. Send the elector written notice that the elector is ineligible to vote per Department of Corrections (Felon Notice issued from WisVote) and that if the elector believes this action was taken in error, they must contact the clerk immediately.
 - a. With the written notice, the clerk should include a copy of the WEC’s Ineligible Voter Information Sheet explaining what the elector needs to do to resolve the issue with the Department of Corrections.

- ii. If the elector maintains that they are eligible to vote in the election, the clerk shall:
 1. Restore the elector’s registration, but mark it as “ineligible to vote per Department of Corrections.”
 2. Restore the elector’s absentee application, but mark it as “ineligible to vote per Department of Corrections.”
 3. Issue an absentee ballot to the voter, but mark the certificate envelope as “ineligible to vote per Department of Corrections.”
- iii. On Election Day, the inspectors shall review the Ineligible Voter List and challenge the ballot if the name of the elector appears on the list (see Election Day Issues, Challenging Voters) and there is no contrary instruction from the clerk.
 1. The election inspectors shall make a reasonable effort to contact the WEC to confirm an elector’s felon status before challenging the absentee ballot.

Wis. Stat. § 6.29(2)(am).

2. The clerk must transmit an absentee ballot by email or fax to military or permanent and temporary overseas electors, if requested. Clerks may NOT transmit an absentee ballot by fax or email to a regular voter.
3. The clerk must initial all ballots issued in the endorsement section of each ballot under “Absentee ballot issued by.” Wis. Stat. § 6.86(1)(ar).
4. Complete the Absentee Certificate Envelope (EL-122) by filling out the “Clerk Use Only” section with the date of the election, county, municipality, and district/ward information.
5. Place the following materials in an Absentee Carrier Envelope (EL-120):
 - a. Cover letter (optional).
 - b. Uniform Absentee Instructions (regular, military and overseas)
 - c. Ballot(s)

- d. Absentee Certificate Envelope (EL-122 or 122M) using the regular, FIM-A, FIM-B, or FIM-C version as appropriate. Contact your local post office if you are not certain of which to use.
 - e. The clerk must provide 1st class postage on the envelope addressed to the voter.
 - f. The clerk must provide 1st class postage on the certificate envelope if the ballot will be returned from within the United States. Wis. Stat. § 6.87(3)(a).
 - i. The clerk is not required to provide postage on certificate envelopes that will be returned from outside of the United States.
 - g. For military and overseas voters, use the postage paid envelopes; EL-120M mailer envelope and the EL-122M certificate envelope.
6. Mail the Absentee Carrier Envelope to the mailing address provided by the absentee elector within one business day of receiving the request. Wis. Stat. § 7.15(1)(cm).
7. The clerk maintains the Absentee Ballot Log (EL-124).
- a. The Absentee Ballot Log (EL-124) is used to track the events that occur during the absentee ballot process (e.g. application received, ballot issued, ballot canceled, 2nd ballot issued, ballot received, ballot counted, etc.)
 - b. The Absentee Ballot Log (EL-124) enables the clerk to track any problems with the absentee certificate envelope (missing certificate, voter signature, witness signature and address, or two SVD signatures) and communicate this information to the election inspectors so they can reject the ballot if the error is not corrected by 8:00 p.m. on Election Day. [See “Voter Correction of Incomplete Absentee Certificate Envelopes” on page XX.](#)
 - c. Municipal clerks who maintain their own WisVote data may also track absentee ballots and print ballot labels in WisVote.

- d. The Absentee Ballot Log (EL-124) is sent to the polling place with the absentee ballots on Election Day.
8. An absentee ballot is marked by an absent voter, and sealed in an Absentee Ballot Certificate Envelope (EL-122). The Absentee Ballot Certificate Envelope (EL-122) is then completed and signed by the absentee voter, witnessed by an adult U.S. Citizen, and mailed or delivered in person to the [office of the municipal clerk](#). Wis. Stat. § 6.87(4)(b); [Teigen v. Wis. Elections Comm’n, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519](#). Note: The witness for absentee ballots completed by Military, Permanent and Temporary Overseas voters, must be an adult, but does not have to be a U.S. Citizen.

- a. The witness must include their ~~printed name and their~~ address.
Note: The WEC may issue and distribute its guidance regarding the definition of ‘address.’ White v. WEC, (2022CV001008). See “Voter Correction of Incomplete Absentee Certificate Envelopes” on page **XX**.
- b. The witness must include their printed name: On December 1, 2021, the Commission voted unanimously to pass the following motion: “That a space for the witness to provide their printed name be included in the ballot envelope redesign.” This decision was in response to the Legislative Audit Bureau’s Recommendation #14, which specifically addressed the field where the absentee ballot witness prints their name.

- a. **Disclaimer:** If an absentee certificate is missing the witness’s printed name, the clerk should decide how to proceed because the Commission does not have a statutory role in receiving and accepting ballots from electors. If a clerk receives an absentee ballot with an improperly completed certificate, § 6.87(9) states that they may return the ballot to the elector whenever time permits the elector to correct the defect. A ballot may also be rejected under § 6.88(3)(b) if the “certification is insufficient.” Statute directs that the absentee ballot certificate language appear in “substantially” the form listed in § 6.87(2), which includes a field for a witness’s printed name, in addition to their signature. A clerk should determine whether a missing witness printed address renders the certification

“insufficient” when determining if they should take action under § 6.88(3)(b). See also “Voter Correction of Incomplete Absentee Certificate Envelopes on page XX.”

a.b. **Litigation Note:** On July 20, 2023, a complaint was filed in the matter of Priorities USA et al v. Wis. Elections Comm’n (2023CV001900) in Dane County. The complaint seeks declaratory judgment that the witness requirement for absentee voting is invalid. As of December 2023, no judgement or order has been entered on the merits of this litigation. The Priorities USA matter is still being litigated, and this section of the manual will be updated and/or supplemented consistent with further updates in that case, if any.

~~—The witness for absentee ballots completed by Military, Permanent and Temporary Overseas voters, must be an adult, but does not have to be a U.S. Citizen.~~

~~Clerks may add a missing witness address using whatever means are available. Clerks should initial next to the added witness address.~~

Caselaw Update: Return of Voted Absentee Ballots

Only the voter may lawfully return his or her completed absentee ballot, either by mail or in person to the office of the municipal clerk, subject to two exceptions. Wis. Stat. § 6.87(4)(b)(1); *Teigen v. Wis. Elections Comm’n*, 2022 WI 64, 59, 403 Wis. 2d 607, 976 N.W.2d 519.

First, pursuant to the Voting Rights Act, any Wisconsin voter who requires assistance with mailing or delivering their absentee ballot to the municipal clerk because of a disability must be permitted to receive such assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union. *Carey v. Wis. Elections Comm’n*, 624 F. Supp. 3d 1020 (W.D. WI 2022).

Second, pursuant to section 6.86(3)(a)1., an agent may return a completed absentee ballot on behalf of a disabled voter by following the procedures required by that section.

When an election official is presented with an absentee ballot delivered in-person, the Commission believes that the official may ask the following questions:

- Are you the voter? If not, then:
- Are you delivering the voter’s ballot because the voter has determined that they require assistance returning their ballot due to their disability? If yes, then:
- Are you someone other than the voter’s employer, an agent of that employer, or an officer or agent of the voter’s union? If yes, then the ballot can be accepted.⁴

Option 1 (Additional Guidance) - The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee voting site. Wis. Stat. § 6.855; Tiegen v. Wis. Elections Comm’n, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519.

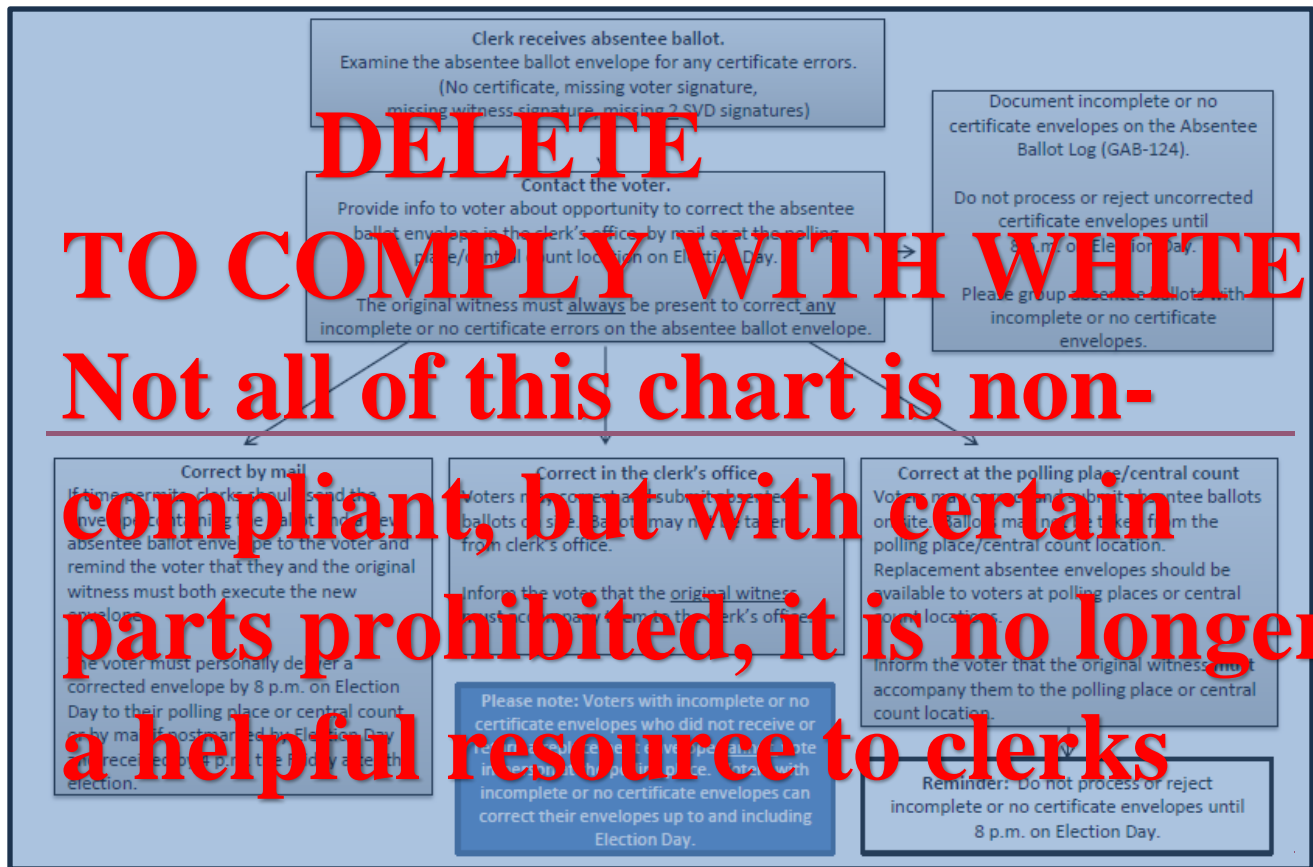
Option 2 (Additional Guidance) - The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee voting site. Wis. Stat. § 6.855; Tiegen v. Wis. Elections Comm’n, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519. The drop box must be attended by the municipal clerk at all times, and must be placed within the “four walls” of the office of the municipal clerk or the alternate absentee voting site. This means that the drop box, even if attended, cannot be placed in the hallway, a borrowed conference room, the lobby of the municipal building, or outside on the sidewalk.

Option 3 (Additional Guidance) The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee voting site. Wis. Stat. § 6.855; Tiegen v. Wis. Elections Comm’n, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519. The office of the municipal clerk means any physical area that is controlled by, and exclusively used by, the municipal clerk in order to carry out their statutory duties.

b.

⁴ This guidance was approved by the Commission on September 6, 2022, and is available here: <https://elections.wi.gov/news/guidance-absentee-ballot-return-options>.

Correcting Defective Absentee Certificate Envelopes



Voter Correction of Incomplete Absentee Certificate Envelopes

- The municipal clerk reviews each absentee certificate envelope when it is returned to the clerk's office for any missing certificate information errors (e.g. missing certificate, voter signature, witness signature and address, or two SVD signatures).

If the information on the absentee certificate envelope is incomplete, or if the certificate is missing, the clerk "may return the ballot to the elector... whenever time permits the elector to correct the defect and return the ballot" so that the municipal clerk can cause the completed ballot to be delivered to the proper polling place by 8 p.m. on Election Day. Wis. Stat. § 6.87(9). If the municipal clerk returns the ballot to the elector under § 6.87(9), the ballot can be returned "inside the sealed envelope when an envelope is received, together with a new envelope if necessary..." Wis. Stat. § 6.87(9).

Sec. 6.87(9) does not limit how a municipal clerk should “return the ballot” to the elector. A clerk may chose to do this by returning it in the mail, or by returning it to the voter in person in the clerk’s office or at the polling place on Election Day.

Option 1: If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.

- **Option 2:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” **When voting absentee, an elector must mark, fold, and deposit their ballot into the certificate envelope in the presence of a witness, all in a manner that will not disclose how the elector’s vote is cast. Wis. Stat. § 6.87(4)(b)1. Statute does not require the witness to verify any of the voter’s information on the certificate envelope. Wis. Stat. § 6.87(4)(b)1. If the voter is correcting information in the “Voter Information” section of the original certificate envelope (to fill in a missing required field, for example), the original witness does not need to be present to witness the voter correcting the defect under § 6.87(9). If the municipal clerk has provided the voter with a new envelope, the elector must request that their original witness re-complete the witness portion of the absentee envelope. The original witness must be used because they were the one who witnessed the voter marking, folding, and depositing the ballot into the envelope. A new witness cannot be used because there is no way for a new witness to witness the elector marking their ballot if an elector is attempting to correct a defect under § 6.87(9). If the witness address field is incomplete or insufficient, the voter and their original witness may go together to the clerk’s office or polling place for the witness to correct the defect.**⁵ The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.

- **Option 3:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” When voting absentee, an elector must mark, fold, and deposit their ballot into the certificate envelope in the presence of a witness, all in a manner that will not disclose how the elector’s vote is cast. Wis. Stat. § 6.87(4)(b)1. Statute does not require the witness to verify any of the voter’s information on the certificate envelope. Wis. Stat. § 6.87(4)(b)1. If the voter is correcting the original certificate envelope (to fill in a missing required field, for example), the original witness does not need to be present to witness the voter correcting the defect under § 6.87(9). If, however, the municipal clerk has provided the

⁵ **Litigation Note:** The definition of “witness address” is the subject of ongoing litigation in two Wisconsin circuit courts. *Rise Inc., et al v. Wis. Elections Comm’n et al* (2022CV002446); *League of Women Voters v. Wis. Elections Comm’n et al* (2022CV002472). Although decisions in both cases were issued on January 2, 2024, the litigation, including the issuance of final injunctive relief and appeal schedule, is still ongoing. Accordingly, the Commission is not able to provide guidance pursuant to either case in the January 2024 version of the manual. However, the manual will be updated to be consistent with the final orders in either or both cases.

voter with a new envelope, the elector must request that their original witness re-complete the witness portion of the absentee envelope. The original witness must be used because they were the one who witnessed the voter marking, folding, and depositing the ballot into the envelope. A new witness cannot be used because there is no way for a new witness to witness the elector marking their ballot if an elector is attempting to correct a defect under § 6.87(9). **If the witness address field is incomplete or insufficient, the voter and their original witness may go together to the clerk’s office or polling place for the witness to correct the defect.**⁶ **If the voter corrects the certificate envelope in the clerk’s office, the clerk may issue a new certificate envelope to the voter. Wis. Stat. § 6.87(9). If the voter corrects the “Voter Information” section of the certificate envelope at the polling place, they may only correct the error—they may not vote a new ballot. An election inspector at the polls may issue a new envelope, if necessary, pursuant to the clerk’s authority under § 6.87(9). The voter should open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope. The voter may NOT remove the ballot from the polling place. If a new certificate envelope is issued and completed, the original defective certificate envelope must be destroyed, but still set aside to be accounted for later in the event of a recount. The clerk or election inspector should document that a correction was made (and if the ballot was accepted on Election Day) on the Absentee Ballot Log (EL-124). The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.**

Municipal clerks should make every effort to review absentee certificate envelopes as they receive voted absentee ballots from voters so that they can choose to exercise their authority under § 6.87(9) or § 6.88(3) ahead of Election Day. If exercising authority under § 6.88(3), the clerk should label missing and no certificate envelope ballots as “To Be Rejected,” and keep them separate from the rest of the absentee ballots when delivering to the polling place.

However, there may be some instances in which an election inspector notices an incomplete or insufficient absentee certificate while reviewing and processing absentee ballots at the polling place on Election Day. If the election inspector notices that an absentee certificate is incomplete or insufficient, the ballot must be set aside to allow the elector an opportunity to correct the defect and return the ballot under § 6.87(9).

There may be some instances in which time does not permit an elector to correct the defect and return the ballot by 8 p.m. on Election Day. Wis. Stat. § 6.87(9). In that instance, if the certification is still insufficient, the election inspector “shall not count the ballot.” Wis. Stat. § 6.88(3)(b). If a ballot is rejected on this ground, an inspector must write “rejected,

⁶ **Litigation Note:** The definition of “witness address” is the subject of ongoing litigation in two Wisconsin circuit courts. *Rise Inc., et al v. Wis. Elections Comm’n et al* (2022CV002446); *League of Women Voters v. Wis. Elections Comm’n et al* (2022CV002472). Although decisions in both cases were issued on January 2, 2024, the litigation, including the issuance of final injunctive relief and appeal schedule, is still ongoing. Accordingly, the Commission is not able to provide guidance pursuant to either case in the January 2024 version of the manual. However, the manual will be updated to be consistent with the final orders in either or both cases.

insufficient certificate” on the back of the ballot. Wis. Stat. § 6.88(3)(b). The rejected ballot should then be reinserted into the certificate envelope in which it was delivered, and securely seal both in an envelop marked for rejected absentee ballots. Wis. Stat. § 6.88(3)(b). All other procedures specified by § 6.88(3)(b) should always be followed when rejecting absentee ballots for any reason.

The clerk should document any certificate errors on the Absentee Ballot Log (EL-124).

1.

2. If a clerk receives an absentee ballot with an improperly completed certificate, or no certificate, the clerk may return the ballot to the elector under the procedures specified by § 6.87(9). See “Voter Correction of Absentee Certificate Envelopes” on page XX. If the certificate is missing information, or if there is no certificate, the clerk may return the ballot to the voter, inside the sealed envelope when an envelope is received, together with a new envelope, if necessary, whenever time permits the elector to correct the missing information and cause the ballot to be returned so that it is delivered to the polling place by 8:00 p.m. on Election Day. If there is an error, the clerk should contact the voter, if possible. Wis. Stat. § 6.87(9).

a. The voter has the option to correct the absentee certificate envelope in the clerk’s office, by mail, or at the polling place/central count location on Election Day.

b.a.

— If the voter wants the original ballot mailed back to them, and the original envelope was damaged, the clerk shall enclose the original ballot in its unopened certificate envelope along with a new certificate envelope in a carrier envelope, to send to the voter. The voter must open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope. Wis. Stat. § 6.86(5).

c. A voter who chose to correct the certificate envelope by mail, but did not return a corrected envelope, cannot vote in person at the polling place.

d. If the voter corrects the certificate envelope in the clerk’s office, the clerk shall issue a new certificate envelope to the voter. The voter must open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope. Tthe voter may NOT remove the ballot from the clerk’s office. The clerk may NOT serve

~~as the witness (the original witness must be present). The original certificate envelope is then destroyed.~~

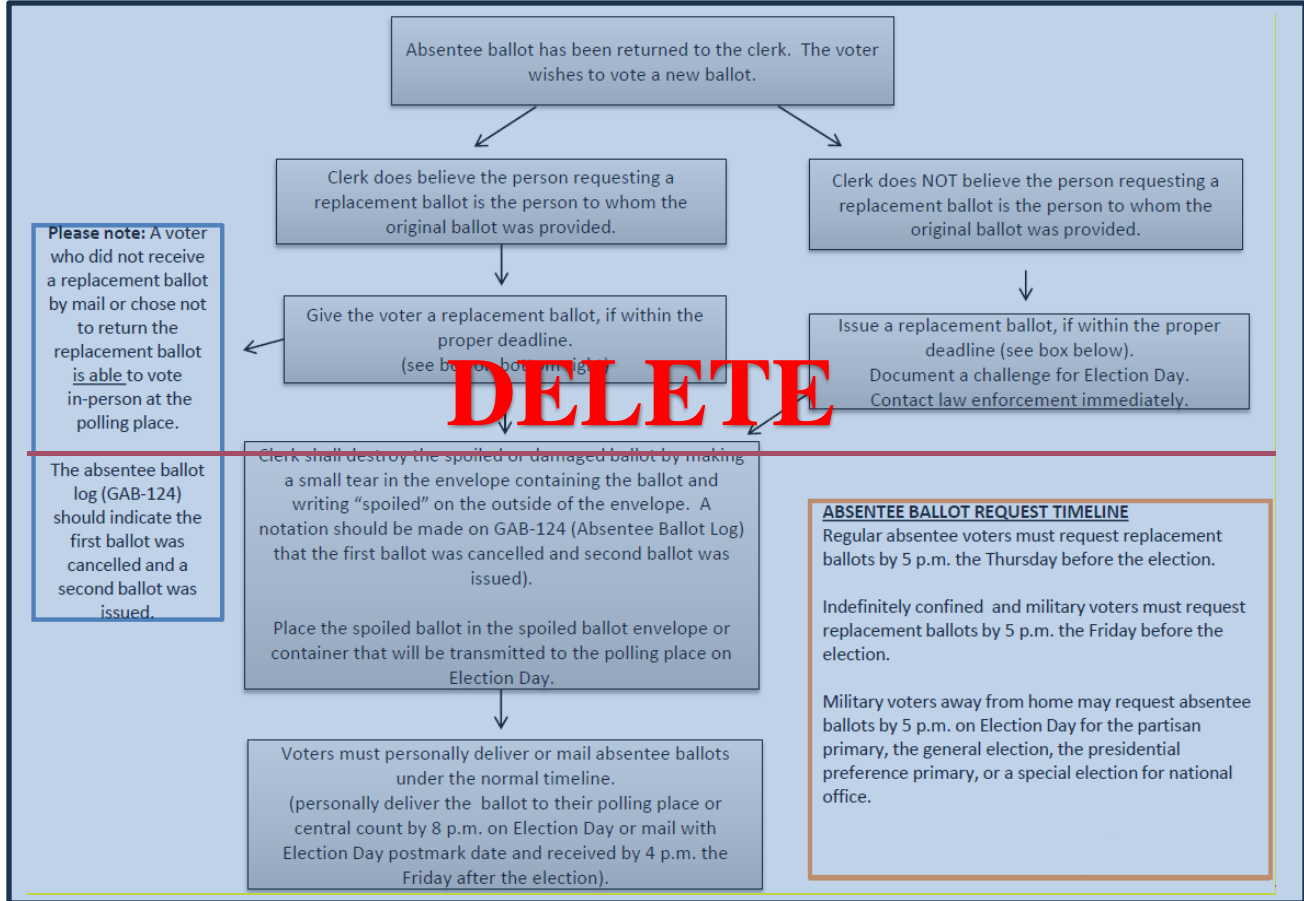
~~a. If the voter corrects the certificate envelope at the polling place/central count site, the election inspectors shall issue a new certificate envelope to the voter. The voter must open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope. The voter may NOT remove the ballot from the voting area. The election inspectors may NOT serve as the witness (the original witness must be present). The original certificate envelope is then destroyed.~~

~~3. The original witness must always be present to correct any certificate errors.~~

~~4. The clerk should document any certificate errors on the Absentee Ballot Log (EL-124).~~

~~5. Absentee certificate envelopes with missing information should not be processed until after 8:00 p.m. at the polling place on Election Day.~~

Spoiling and Replacement Ballots



Spoiling and Replacement Absentee Ballots

Disclaimer: This section of the manual covers a municipal clerk’s ability to return absentee ballots to electors under § 6.86(5) when the ballot is spoiled or damaged. For information on a municipal clerk’s ability to return absentee ballots to electors under § 6.87(9) when the certificate is incomplete or missing, see “Voter Correction of Incomplete Absentee Certificate Envelopes” on page XX. **Be advised that these two sections of the manual are not interchangeable.**

If a clerk receives an absentee ballot that is spoiled or damaged from a voter, statute directs that the clerk shall issue a new ballot to the elector, provided there is enough time for the elector to properly return the ballot. Wis. Stat. § 6.86(5). The clerk must also believe that the first ballot was issued to or on behalf of the elector who is returning it before issuing the second ballot. Wis. Stat. § 6.86(5). If the clerk issues a new ballot pursuant to § 6.86(5), the clerk should destroy the spoiled or damaged ballot. Wis. Stat. § 6.86(5). The spoiled or damaged ballot should be destroyed to the extent that it cannot be tabulated, but should still be preserved as a defective ballot per § 7.51(2)(b). If the clerk does not believe the person requesting the replacement ballot is the one to whom the original ballot was provided, the

clerk should not issue the replacement ballot, document the incident for a subsequent challenge on Election Day under § 6.92, and contact law enforcement immediately.

A circuit court has recently concluded on a motion for summary judgment that there is no statutory authority for a clerk to return or spoil an otherwise complete, undamaged absentee ballot that was properly previously returned by an elector. *Kormanik v. WEC* (2022CV001395, Nov. 29, 2023). If an absentee ballot is complete and in totally acceptable condition and was properly returned in an unspoiled and undamaged state, “the statutes provide no basis upon which the voter may ever possess that ballot again.” *Kormanik*, at 13.

A voter who did not receive the replacement ballot, or chose not to return it, is able to vote in-person on Election Day.

Option – Include Further Guidance (When is a Ballot Returned): The *Kormanik* circuit court decision concluded that the only way to read § 6.86(5) is that the spoiling or damaging were already done when the absentee ballot was returned. The circuit court concluded that a ballot that is not damaged or spoiled, and is otherwise complete, is “returned” when it arrives at the clerk’s office. The circuit court noted that § 6.88(1) “requires that upon arrival at the clerk’s office, the ballot shall be sealed in a carrier envelope and must be opened when and where election day votes are being cast...Once the clerk has that returned ballot, it is to be sealed until election day.” *Kormanik*, at 13.

Option – Include Further Guidance (How the Request is Made): If the voter returns an absentee ballot that is already spoiled or damaged to the municipal clerk, the voter’s request for a replacement ballot under § 6.86(5) must be made within the applicable statutory timeframe for *requesting* an absentee ballot. Wis. Stat. § 6.86(5) (cross-referencing § 6.86(1) and (3)(c)). The elector may vote the replacement ballot at the clerk’s office during in-person absentee voting under those procedures, or may vote the ballot under the usual absentee return procedures in § 6.87(4)(b)1.

Option – Litigation Note: As of January 24, 2024, the *Kormanik* matter is still open, and this section of the manual will be updated and/or supplemented consistent with further updates in that case. The Commission is not expecting final judgment before February 2024. In the event of a decision resulting from an appeal, this section of the manual will be further updated and/or supplemented, if necessary.

- ~~1. If the applicable absentee request deadline has not yet passed for the voter and the clerk believes the person requesting the replacement ballot is the person to whom the original ballot was provided, the voter has the option to spoil their ballot (for any reason) and vote a new ballot. The voter can have a 2nd ballot sent to them by mail, they can come to the clerk’s office and vote in-person absentee, or they can vote on Election Day at the polling place. If a 2nd absentee ballot is issued, the certificate envelope should be marked “2nd ballot.” Wis. Stat. § 6.86(5).~~

~~a. If the clerk does NOT believe the person requesting the replacement ballot is the person to whom the original ballot was provided, the clerk shall issue a replacement ballot, document the incident for a subsequent challenge on Election Day, and contact law enforcement immediately.~~

~~b. A clerk should “spoil” the returned original ballot by partially tearing the certificate envelope and ballot so that is unusable as a ballot, but not entirely destroyed and placing it in a Spoiled Ballots envelope.~~

~~c. A voter who wishes to spoil a ballot in their possession should similarly destroy the envelope/ballot.~~

~~d.a. _____ A voter who did not receive the replacement ballot or chose not to return the replacement ballot is able to vote in person on Election Day.~~

2.1. The municipal clerk ensures that each absentee ballot is delivered to the correct polling place or alternate absentee ballot site on Election Day no later than 8:00 p.m. Wis. Stat. § 6.86(3)(c).

~~a. BMissing and no certificate envelope ballots with no certification or missing information should be labeled “To Be Rejected” and kept separate from the rest of the absentee ballots when delivered to the polling place.~~

~~b. Election inspectors should be instructed to NOT process these absentee ballots until 8:00 p.m. on Election Day so as to provide the voter with as much time as possible to fix the error.~~

3.2. If the clerk receives an absentee ballot from an elector who is recorded as voting on Election Day, the clerk should mark the ballot “To Be Rejected” and set the ballot aside for processing by the Municipal Board of Canvassers. The clerk should also contact law enforcement immediately.

4.3. If an elector with a calendar year request does not return a ballot for an election, the absentee request is cancelled and the absentee elector should be notified by mail within 5 days, if possible. Wis. Stat. § 6.86(2)(b).

Special Categories of Absentee Voters

There are additional procedures for various special categories of voters.

Indefinitely Confined Electors

1. An elector who is indefinitely confined because of age, physical illness or infirmity, or is disabled for an indefinite period may sign a statement to that effect and request that absentee ballots be sent to the elector automatically for every election until such time as the elector fails to return a ballot.
 - a. The Application for Absentee Ballot (EL-121) contains a space for the voter to indicate they qualify as indefinitely confined.

Note: The completion of the certification of witness satisfies the proof of Identification requirement for indefinitely confined electors.

 - b. The envelope containing the indefinitely confined elector's ballot should be clearly marked "return service requested."
 - c. If an indefinitely confined elector does not wish to vote a ballot that has been sent to them, they should be directed to place the blank ballot in the certificate envelope and return it to the clerk's office.
 - d. If an indefinitely confined elector fails to cast and return a spring, general or special election ballot, the clerk shall send a 1st class letter or postcard informing the voter that their name will be removed the list unless the voter applies for renewal within the 30-day period.
 - i. Notification letters can be generated from WisVote if using the absentee functionality.
 - ii. The voter is required to submit a renewal of their absentee request in writing, but a full Application for Absentee Ballot (EL-121) is not required.
2. The clerk shall remove from the indefinitely confined list the name of each person who:

- c. Fails to cast and return an absentee ballot for a spring, general or special election and does not renew the application within 30 days.
- d. Requests their name be removed from the list.
- e. No longer qualifies for the service (upon receipt of reliable information).

Wis. Stat. § 6.86(2)(a) and (b).

Military & Overseas (Permanent and Temporary) Electors

Military and overseas electors are covered by the federal Uniformed Overseas Citizens Absentee Voting Act (UOCAVA) as well as specific state laws. As such, they have a variety of special rules that apply to them to ensure that the elector will receive their ballot in time to vote from overseas.

Military and Overseas Absentee Applications

The general procedure for military and overseas electors to request an absentee ballot is as follows:

1. Requests must be made in writing by one of the following methods:
 - a. The Application for Absentee Ballot (EL-121)
 - b. MyVote.wi.gov (see MyVote chapter)
 - c. The Federal Post Card Application (FPCA), also known as Standard Form 76. Regular voters who are temporarily overseas may also use this form. Wis. Stat. § 6.24(4)(b).
 - d. Any other written request (providing it gives all required information and is signed by elector). Fax or email requests are valid if received by the application deadline and do not require a copy of the applicant's signature. Wis. Stat. § 6.24(4)(a).

2. Military Electors

- a. State law provides that an individual who qualifies as a military elector is not required to register (although clerks need to obtain sufficient information to enter a military elector into WisVote). Wis. Stat. § 6.22(3).
- b. Military electors are exempt from providing proof of identification when voting absentee by mail. Wis. Stat. § 6.34(2).
- c. Military electors may request an absentee ballot for any specific election or for all elections within the calendar year of which the request was made, until the individual otherwise requests or until one of the following occurs:
 - i. The elector no longer qualifies for military status.
 - ii. The elector has registered to vote elsewhere.
- d. Military personnel seldom notify their municipal clerk when they are relocated or when they leave the military.
 - i. This often makes keeping up with the location of military electors difficult and frustrating.
 - ii. The Federal Voting Assistance Program's (FVAP) policy with respect to divulging information about military personnel status or location has become more stringent. In light of these difficulties, the Wisconsin Elections Commission has implemented the following policy with respect to military voters:
 1. The clerk is required to make an effort to determine the location or status of a military elector.
 2. The clerk must document what efforts were taken to determine the location or status of a military elector, and the results of those efforts.
 3. The elector will be offered the opportunity to reapply for absentee ballots.

- e. A military elector may request an absentee ballot be transmitted via email or fax. The municipal clerk must comply with their request. Wis. Stat. § 6.22(2)(e).

3. Permanent Overseas Electors

- a. Permanent overseas electors are required to register to vote, but are not required to provide proof of residence. Wis. Stat. § 6.27.
- b. Permanent overseas electors are exempt from providing proof of identification when voting absentee by mail. Wis. Stat. § 6.34(2).
- c. An absentee ballot request from an overseas elector is effective for the calendar year in which the request was made. Wis. Stats. §§ 6.24(3), 6.24(4)(c).
- d. Overseas electors *only* receive ballots for federal offices (U.S. President, U.S. Senator, and Representative in Congress). Wis. Stat. § 6.22(5).
- e. An overseas elector may request an absentee ballot be transmitted via email or fax. The municipal clerk must comply with their request. Wis. Stat. § 6.22(4)(e).

4. Temporary Overseas Electors

- a. Temporarily overseas electors are required to register to vote and must provide proof of residence. Wis. Stat. § 6.27.
- b. Temporary overseas electors must provide proof of identification to request an absentee ballot.
- c. Temporary overseas electors may request an absentee ballot for any specific election or for all elections within the calendar year of which the request was made.
- d. Temporarily overseas electors receive the full ballot for an election, including local contests. Wis. Stat. § 6.22(5).

- e. A temporarily overseas elector may request an absentee ballot be transmitted via email or fax. The municipal clerk must comply with their request. Wis. Stat. § 6.22(4)(e).

Transmitting Absentee Ballots by Facsimile or Email

The clerk must transmit an absentee ballot by email or fax to military, permanent overseas or temporary overseas electors, if requested. The clerk may NOT transmit an absentee ballot by email or fax to regular electors.

To transmit a ballot via fax or email, the clerk should take the following steps:

1. Initial the ballot in the endorsement section under “Absentee ballot issued by”.
2. Initial and indicate the page number and total number of pages (1 of 3, 2 of 3, etc.) in the upper-right corner of each side of the ballot that contains contests.
3. Complete the Absentee Certificate Envelope (EL-122 or EL-122M) by filling out the “Clerk Use Only” section with the date of the election, county, municipality, and district/ward information.
4. Fax or scan and send the following:
 - a. Cover letter (optional)
 - b. Uniform Absentee Instructions for military and overseas voters
 - c. Each side of the ballot
 - d. The face of the absentee certificate envelope (EL-122 or EL-122M)

Federal Write-In Absentee Ballot (FWAB)

The FWAB is a write-in ballot that is only available to military and overseas electors. The FWAB is available at military posts, U.S. embassies, and consulates throughout the world. It may also be downloaded from the Federal Voting Assistance Program’s website (<http://www.fvap.gov>). Wis. Stat. § 6.25(1), (4).

The FWAB can be used for any elections/offices for which the elector is eligible to vote. However, if submitted by an overseas elector, the elector must have submitted a separate absentee request that is received no later than the 5th day before the election in order to count the FWAB. The FWAB counts as both an absentee request and write-in ballot for military electors and if an official absentee ballot has not already been sent to a military elector who submits a FWAB, the clerk should transmit an official absentee ballot to the elector as soon as possible.

Special Processing for Write-In Absentee Ballots

1. If received by Election Day, the official absentee ballot supersedes any write-in ballot received from the elector.
2. Whatever ballot is received on Election Day is counted and all other ballots received after Election Day will be rejected.

Hospitalized Electors

A hospitalized elector may certify that they cannot appear at the polling place on Election Day and appoint an agent to conduct the absentee ballot request/delivery process on the elector's behalf. Wis. Stat. § 6.86(3)(a)1, 2.

Procedure

1. The hospitalized elector may not request a ballot by agent more than 7 days before an election or after 5:00 p.m. on Election Day. Wis. Stat. § 6.86(3)(c).
2. If the elector is not registered, the elector must complete a voter registration application and provide proof of residence. Wis. Stat. § 6.86(3)(a)2.
 - a. If the hospitalized elector is unable to sign the registration due to physical disability, they may authorize an assistant to sign on their behalf.
 - i. The assistant must also sign their name as the assistant and provide their address.
 - ii. The assistant need not be the agent.

The hospitalized elector must complete an absentee application and provide proof of identification. Wis. Stat. § 6.86(3)(b).

- b. The agent must provide their name, signature and address on the absentee application.
 - c. If the hospitalized elector is unable to sign the application due to physical disability, they may have an assistant sign the application.
 - i. The assistant must also sign their name as the assistant.
 - ii. The assistant need not be the agent.
 3. The agent for the hospitalized voter delivers a completed absentee ballot application or the written equivalent to the municipal clerk for the hospitalized elector's municipality of residence. Wis. Stat. § 6.86(3)(b).
 4. An agent must provide their own proof of identification before the municipal clerk may issue an absentee ballot to the agent. The clerk should ensure that the identification matches the information on the application. Wis. Stat. § 6.86(3)(b).
 5. The municipal clerk issues an absentee ballot, absentee certificate envelope and uniform instructions in an absentee carrier envelope to the agent for the hospitalized elector. Wis. Stat. § 6.86(3)(b).
 6. The agent transports the absentee ballot to the hospitalized elector. Wis. Stat. § 6.86(3)(c).
 - a. The hospitalized elector votes the ballot in the presence of a witness.
 - i. The agent or another designee of the elector may assist in filling out the ballot and should sign the ballot as the assistant.
 - b. The hospitalized elector places the voted ballot in the absentee certificate envelope, seals and signs the envelope.
 - c. The witness signs the envelope and provides their address.
 - i. The agent may serve as the witness.

The agent must deliver or mail the absentee certificate envelope. Wis. Stat. § 6.86(3)(c).

- a. In person delivery to the municipal clerk, to the polling place or a central count location, if there is one, must be done by 8:00 p.m. on Election Day.
- b. By mail delivery to the municipal clerk must be postmarked and received by Election Day.

Sequestered Jurors

If an elector indicates in their written request for an absentee ballot that they are a sequestered juror, the following special procedures apply:

1. The municipal clerk must receive the sequestered juror's absentee request and proof of identification no later than 5:00 p.m. on Election Day.
2. If the application is received on or before 5:00 p.m. on the Friday before the election, the clerk may mail the absentee ballot to the sequestered juror.
3. If the application is received after 5:00 p.m. on the Friday before the election:
 - a. The clerk or the clerk's agent shall immediately take the ballot to the court in which the elector is serving as a juror and deliver the ballot to the judge.
 - b. The judge shall recess court, as soon as convenient, and give the elector the ballot.
 - c. The judge shall then serve as witness for the sequestered juror and return the voted ballot to the clerk or clerk's agent.

Wis. Stat. § 6.86(1)(b).

Occupants of Residential Care Facilities and Retirement Homes

For information on the procedures for absentee voting in Wisconsin nursing homes, qualified community-based residential facilities, qualified retirement homes, qualified retirement homes, qualified residential care apartment complexes and qualified adult family homes, please reference the "*Absentee Voting in*

Residential Care Facilities and Retirement Homes” manual available on the WEC website. Wis. Stat. § 6.875.

Alternate Absentee Ballot Site

The governing body of a municipality may elect to designate a site to replace the office of the municipal clerk as the location from which electors of the municipality may request and vote absentee ballots. Wis. Stat. § 6.855(1).

1. The designated site shall be located as near as practicable to the office of the municipal clerk. Wis. Stat. § 6.855(1).
2. The governing body shall not later than 14 days prior to the time absentee ballots are available (47 days before each primary or election for national office, 21 days before each other primary or election) designate an alternate absentee ballot site. Wis. Stat. § 6.855(1).
3. The municipal clerk shall display notice of the alternate site in the office of the municipal clerk. Wis. Stat. § 6.855(2).
4. An alternate absentee ballot site shall be staffed by the municipal clerk or employees of the clerk. Wis. Stat. § 6.855(3).
5. An alternate absentee ballot site must be accessible to all individuals with disabilities. Wis. Stat. § 6.855(4).

Absentee Ballot Request Deadlines

The following chart outlines the specific deadlines to request an absentee ballot that apply to different types of absentee voters.

<i>Applicant</i>	<i>How received</i>	<i>Type of Election</i>	<i>Deadline</i>
Regular – Specific Election Request	Mail/Email/Fax	All	Received by 5:00 p.m. on the 5 th day before the election – Wis. Stat. § 6.86(1)(b)
Regular – Calendar Year Request	Mail/Email/Fax	All	5:00 p.m. on the Friday before the election – Wis. Stat. §§ 6.86(1)(b), (2m)
Regular	In-person	All	Clerks may begin in-person absentee voting no earlier than 14 days before an election. Voting may not occur the Monday before the election.
Hospitalized	Mail/Email/Fax (By agent only)	All	Not earlier than 7 days before an election and not later than 5:00 p.m. on Election Day – Wis. Stat. § 6.86(3)(c)
Indefinitely confined	Mail/Email/Fax	All	5:00 p.m. on the Friday before the election – Wis. Stat. §§ 6.86(1)(b), (2)
Military (Not Away)	Mail/Email/Fax	All	5:00 p.m. on the Friday before the election – Wis. Stat. § 6.86(1)(c)
Military (Away)	Mail/Email/Fax	All elections that do not include a national office	5:00 p.m. on the Friday before the election – Wis. Stat. § 6.22(4)(b)
Military (Away)	Mail/Email/Fax	All elections for national office	5:00 p.m. on Election Day – Wis. Stat. § 6.86(1)(b)
Overseas	Mail/Email/Fax	All	5:00 p.m. on the 5 th day (Thursday) before the election – Wis. Stat. § 6.86(1)(b)
Sequestered Juror	Mail/Email/Fax	All	5:00 p.m. on Election Day – Wis. Stat. § 6.86(1)(b)
SVD facility occupant	By Special Voting Deputy	All	Received as part of a facility visit starting no later than 5:00 p.m. on the Monday before the election. Wis. Stat. § 6.875(6)(a).

Securing and Transporting Voted Absentee Ballots

When an absentee ballot arrives at the clerk's office, or at an alternate site under § 6.855, the clerk shall enclose it, unopened, in a carrier envelope (EL-125) which shall be securely sealed and endorsed with the name and official title of the clerk. Wis. Stat. § 6.855. The EL-125 should be attached to any container which is used to transport absentee certificate envelopes to the polling place. The certificate may be made in the form of an envelope, or the certificate may be affixed to another container, such as a box, which may be used to transport absentee certificate envelopes to the polling place. Once the container or envelope has been sealed, it cannot be opened again until the container or envelope is in the same room where votes are being cast at the polls during polling hours on Election Day, or at a meeting of the municipal board of canvassers under § 7.52.

Provisional Voting

In Wisconsin, provisional voting is ONLY used in two situations:

1. If an individual who attempts to register to vote at the polling place on Election Day has been issued a Wisconsin Driver License or Wisconsin DOT-Issued Identification Card, that is not expired or cancelled, even if driving privileges have been revoked or suspended, but is unwilling or unable to provide the license or state identification card number, and the lack of that number is the only missing item of information, the individual may vote provisionally.
 - a. The number is not required for a WI Driver License or DOT-Issued ID Card that has expired or been cancelled.
 - b. Wisconsin DOT/DMV maintains a Help Desk for individuals to call if they need to look up their WI Driver License or DOT-Issued ID Card number. The phone number is: (608) 266-1069, option 1.
 - c. Individuals who have an unexpired WI Driver License or DOT-Issued ID Card may NOT use the last four digits of their Social Security number to register.
2. If an elector is required to provide proof of identification and failed to provide

the required proof of identification, they may vote provisionally.

- a. All voters on Election Day except for confidential voters are required to show proof of identification before receiving a ballot.
- b. If an individual is unable or unwilling to provide the required proof of identification at the polling place on Election Day, they may vote provisionally.

There is NO other situation in which provisional voting should be used. Provisional ballots are NOT given when a voter is at the wrong polling place. If a voter appears at the wrong polling place, they must be directed to the proper location. Provisional ballots are also NOT given when a person is attempting to register in-person at the polling place and cannot provide the required proof of residence.

Wis. Stat. § 6.97(1-4).

Procedure

Once it is determined a voter will vote provisionally, the following procedures are required:

1. If the elector has been issued a provisional ballot due to failure to provide their Wisconsin Driver License or Wisconsin DOT-Issued ID Card number when registering, the election inspectors must still ask the elector to provide an acceptable form of proof of identification.
1. Every provisional voter must complete a Provisional Ballot Certificate Envelope (EL-123).
2. The voter completes the certificate envelope in the presence of at least one election inspector by providing:
 - a. Full name
 - b. Complete address, including municipality and county
 - c. Date of birth
 - d. Indication of U.S. Citizenship

- e. Date of election
 - f. Signature and date
3. The election inspector completes the certificate envelope by:
 - a. Signing and dating the certificate envelope.
 - b. Indicating the type of required information (either “WI Driver License/WI DOT-Issued ID Card Number” or “Proof of Identification”) by checking the appropriate box on the certificate envelope. More than one box may need to be checked.
 4. The election inspector issues a provisional voter number (PV#), which is recorded on the voter list. A voter number is NOT issued to the elector at this time and the elector does NOT sign the poll list.
 - a. This number is issued sequentially, starting with “1.”
 - b. The PV# is also recorded in six places:
 - (1) The back of the ballot
 - (2) On the Inspectors’ Statement (EL-104)
 - (3) On the Provisional Ballot Certificate Envelope (EL-123)
 - (4) On the Provisional Ballot Reporting Form (EL-123r)
 - (5) On the poll list or supplemental poll list
 - (6) On the Provisional Voting Information sheet for the elector
 5. The elector votes the ballot, seals the voted ballot in the Provisional Ballot Certificate Envelope (EL-123), and returns the sealed envelope to the election inspector.
 6. Election inspectors must provide the elector with the Provisional Voting Information Sheet.

7. The sealed certificate envelope (EL-123) is placed inside the Inspectors' Certificate for Provisional Ballots Envelope (EL-108).
 - a. The election inspectors record the name of the elector, the PV#, and the reason for the provisional ballot on the Provisional Ballot Reporting Form (EL-123r) and on the Inspectors' Statement (EL-104).
 - b. The Inspectors' Certificate of Provisional Ballots Envelope (EL-108) must be kept secure throughout Election Day.
 - c. When the polling place closes, the Inspectors' Certificate of Provisional Ballots Envelope (EL-108) must be secured in a separate ballot bag with a tamper evident serialized numbered seal. The serial number shall be recorded on the signed ballot container certification attached to the bag and on the Inspectors' Statement. The bag should be marked "Provisional Ballots."

8. An elector who was issued a provisional ballot may return to the polling place before 8:00 p.m. to provide the missing documentation to the election inspectors. Election inspectors shall review the provided documentation to determine if it is satisfactory.
 - a. If the provided documentation is not valid the election inspectors shall inform the elector and document the incident on the Inspectors' Statement (EL-104).
 - b. If the provided documentation is valid:
 - i. The elector must sign the poll or supplemental list.
 - ii. Note on the Inspectors' Statement (EL-104) that the elector provided the required documentation.
 - iii. Initial and date the Provisional Ballot Reporting Form (EL-123r) to indicate that the elector provided the required documentation.

- iv. Election inspectors should offer the elector the option of spoiling the provisional ballot and voting a new ballot.
- v. If the elector chooses to spoil the provisional ballot:
 1. The Provisional Ballot Certificate Envelope (EL-123) is removed from the Inspectors' Certificate of Provisional Ballots (EL-108) envelope and given to the elector.
 2. The elector should remove the provisional ballot and spoil it.
 3. Document the incident and spoiled ballot on the Inspectors' Statement (EL-104).
 4. The elector signs the poll list.
 5. The elector is issued a sequential voter number, which is recorded on the poll list and noted on the Provisional Ballot Reporting Form (EL-123r) by marking "on poll list" in the column labeled "Voter Number Issued."
 6. The elector is given a new ballot.
- vi. If the elector chooses to cast the provisional ballot:
 1. Note on the Inspectors' Statement (EL-104) and initial and date the Provisional Ballot Reporting Form (EL-123r) that the elector provided the required documentation.
 2. Remove the elector's Provisional Ballot Certificate Envelope (EL-123) from the Inspectors' Certificate of Provisional Ballots (EL-108) envelope.
 3. Verify that the Provisional Ballot Certificate Envelope (EL-123) has not been opened or tampered with.
 - a. If the Provisional Ballot Certificate Envelope (EL-123) has been tampered with, the election inspectors shall spoil the provisional ballot and instruct the elector to cast a new ballot.

4. The elector signs the poll list. If the municipality uses e-pollbooks, the elector signs the supplemental poll list.
5. The elector is issued a sequential voter number, which is recorded on the poll list and noted on the Provisional Ballot Reporting Form (EL-123r) by marking “on poll list” in the column labeled “Voter Number Issued.”
6. Provide the elector with the Provisional Ballot Certificate Envelope (EL-123) and instruct him or her to remove the ballot and place it in the ballot box or voting equipment.
7. Collect the used Provisional Ballot Certificate Envelope (EL-123) from the elector and place it back in the Inspectors’ Certification of Provisional Ballots (EL-108) envelope.

Processing

1. A Provisional Ballot Reporting Form (EL-123r) must be completed by the election inspectors at the polling place listing all of the electors who cast a provisional ballot. The clerk must review the form and send a copy to both the county clerk and their WisVote provider if different after the close of polls on Election Day. The municipal clerk must keep a copy for their office. A blank Provisional Ballot Reporting Form is available on the agency website.
2. All electors who have been issued a provisional ballot must be tracked in WisVote on election night. WisVote must also be updated if/when an elector provides the missing information.
 - a. Self-Providers must enter the information into WisVote. Please see the WisVote Training Manual for details.
 - b. Reliers must provide the Provisional Ballot Reporting Form (EL-123r) to their Provider. Reliers must inform their Provider with updates if/when electors provide the missing information.
 - c. Providers must enter provisional ballot information into WisVote on election night on behalf of their reliers. Please see the WisVote Training Manual for details.

- d. The ballot bag containing the provisional ballots must be secured in the municipal clerk's office until they are delivered to the Municipal Board of Canvassers for processing.
3. Provisional ballots are not counted until the required information (either WI Driver License/WI DOT-Issued ID car number and/or proof of identification) is provided to either the election inspectors by 8:00 p.m. on Election Day, or to the municipal clerk or deputy clerk by 4:00 p.m. on the Friday after the election.
 - a. Municipal clerks must be available to receive the missing information from electors who have an outstanding provisional ballot through 4:00 p.m. on the Friday after the election:
 - i. Electors who need to provide their WI Driver License or WI DOT-issued ID Card number may provide the number:
 1. Over the phone
 2. By electronic transmission
 3. By delivery (not in-person)
 4. In-person
 - ii. Electors who need to provide proof of identification must provide their photo ID in-person.
 - b. Electors who provide their information after Election Day do not sign the poll list.
 - c. When an elector provides missing provisional information after Election Day, the municipal clerk must update the EL-123r with:
 - i. The type of provisional documentation provided
 - ii. The method used to provide the missing information
 - iii. The date and time the elector provided the missing information
 - iv. The clerk's name
 - d. WisVote must also be updated when an elector provides missing provisional information after Election Day.

4. If the person voting provisionally does not present the information to the municipal clerk by 4:00 p.m. on the Friday after the election the Provisional Ballot Certificate Envelope (EL-123) is not opened. Neither the voter nor the ballot is counted as part of the Election Day results if the missing required information is not returned by the deadline.
5. The municipal clerk should maintain communication with the county clerk regarding the number of outstanding provisional ballots.
6. After the 4:00 p.m. deadline on the Friday following the election, the municipal clerk transmits an updated EL-123r to the County indicating which electors provided missing information.
7. The ballot bag containing the provisional ballots should only be opened during a meeting of the Municipal Board of Canvassers.
8. The Municipal Board of Canvassers will meet to count and tally the provisional ballots for which the elector has supplied the missing information.
 - a. The Board of Canvassers will assign a voter number to the elector starting with the last voter number issued on Election Day in the appropriate reporting unit.
 - b. The voter number is recorded on the EL-123r.
 - c. The votes cast on the provisional ballot are tallied on a Tally Sheet (EL-105).
 - d. A copy of the EL-123r and the tally sheets used at the Board of Canvassers is forwarded on to the other affected Boards of Canvassers.

Wis. Stat. § 6.97(1-4).

Frequently Asked Questions

1. Can persons convicted of a felony vote?

A person who has been convicted of a felony may not vote until the term of their sentence, including probation or parole, has been served.

2. *What if a person moves away but indicates that they have the intent to return?*

So long as they have not registered to vote at the new municipality, they may retain their right to vote in the former municipality.

3. *What if the elector has recently moved to the municipality?*

Individuals who have moved within the state, but have resided at their new address fewer than 28 days must vote at the polling place that served their previous residence. Individuals who have recently moved to the state and resided at their address fewer than 28 days may vote for President and Vice President only by completing the Application for Presidential Ballot – New Wisconsin Resident (EL-141).

4. *If an individual is temporarily overseas, such as for school, are they considered an overseas elector?*

Yes. That individual is considered an overseas elector and is treated like any other UOCAVA voter.

5. *Can a spouse or family member request an absentee ballot on behalf of their relative?*

No. The clerk is required to obtain written request from each elector before issuing an absentee ballot.

6. *Can a voter take a ballot out of the clerk's office?*

No. An elector may NOT take the ballot out of the clerk's office. However, an absentee voter may obtain and cast a ballot inside the clerk's office during the in person absentee voting hours.

7. *Rather than returning a ballot to the clerk's office, can an absentee elector deliver the ballot to the polling place?*

Yes. If the absentee elector returns the ballot to the polling place, the election inspectors must indicate that the absentee ballot was hand-delivered on the Inspectors' Statement (EL-104) and Absentee Ballot Log (EL-124). In the case of a municipality that counts absentee ballots at a central location rather than the polling place, the voter must return their ballot there and not the polling place.

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ELECTION OFFICIALS

Summary

An election official is defined as “an individual who is charged with any duties relating to the conduct of an election.” Wis. Stat. § 5.02(4e). County, municipal and school district clerks are election officials, as are election inspectors, chief inspectors, election registration officials (EROs), tabulators, greeters, and canvass board members. Election officials perform a very important public service by enhancing the high quality and integrity of our elections. It is important that you, as a municipal clerk, ensure there are qualified and well-trained individuals for these positions. Wisconsin Statute Chapter 7 prescribes the selection, training, and duties for election officials.

Municipal Clerks

Appointment and Qualifications

Municipal clerks are elected by the electors or appointed to their positions by the governing body of a given town, village, or city. For specific qualification and residency requirements, consult your municipal attorney.

Duties

The municipal clerk’s election duties include, but are not limited to, supervision of elections and voter registration in the municipality, equipping polling places, purchasing and maintaining election equipment, preparing ballots and notices, and conducting and tracking the training of other election officials. The municipal clerk is responsible for conducting the election in his or her municipality.

Wis. Stat. § 7.15.

A municipal clerk may register voters in his or her office on Election Day if located within the same building as the polling place with a resolution of the governing body.

Training Requirement

Under Wisconsin law, each municipal clerk must attend training sponsored by the Wisconsin Elections Commission every two years. Wis. Stat. § 7.15(1m). In order to comply with this training requirement, municipal clerks must obtain six hours of

training every two-year term, beginning January 1 of even-numbered years and ending on December 31 of odd-numbered years. EL 12.03(2).

All clerks must be initially certified by attending the Municipal Clerk Core Curriculum Training course, which counts as three hours of training toward the six hours required in any given term. Clerks always need to earn a minimum of six hours of training during the current term in order to recertify for the next term. EL 12.03(1), (2).

Clerks must report their election training and the number of hours to the WEC using the Municipal Clerk Recertification Reporting Form which is available on the WEC's website. WisVote users can enter their training directly into the system for review and approval by WEC staff. Training not reported using the form or entered into WisVote will not be counted towards recertification hours. Training "sponsored" by the WEC includes any training for municipal clerks that the WEC approves. This includes, but is not limited to, election trainings conducted by county clerks, online training presentations, and election administration or WisVote webinar sessions, either live or recorded. EL 12.03 (4), (5)

Election Inspectors

Election inspectors, often referred to as "poll workers," staff the polling place on Election Day. Election inspectors' duties include setting up the polling place, preserving order, registering electors, recording voter numbers, issuing ballots, monitoring voting equipment, counting votes, and properly completing required forms. Wis. Stat. § 7.37.

Special note regarding election inspector appointments: It is the opinion of the Commission that election inspectors may not serve at elections where they, their spouse, or immediate family member is a candidate on the ballot or under other circumstances where a candidate's success or failure to win election would affect the election inspector financially. There may be other laws that specifically prohibit certain individuals from serving as election inspectors. Clerks are encouraged to check with their local municipal attorney if they have any questions as to whether a given individual may serve.

Number of Election Inspectors

1. Each polling place should have seven inspectors.

The governing body may increase the number where more than one voting device is used or polling places are combined. Wis. Stat. 7.30(1)(a).

2. By ordinance, the governing body may provide for the selection of alternates or for the selection of two or more sets of inspectors to work at different times on Election Day. Alternate officials may be appointed to maintain adequate staffing of polling places. Wis. Stat. § 7.30(1)(a).
3. The governing body of the municipality may reduce the number of election inspectors by resolution. However, no polling place may have fewer than three election inspectors. Wis. Stat. § 7.32.

Qualification of Election Inspectors

Election inspectors must meet the following criteria:

1. They must be nominated.

The two political parties whose candidates for governor or president received the largest number of votes in the previous general election may submit lists of election inspector nominees no later than November 30 of an odd-numbered year. When party lists are received, election inspector appointments must be made from them. When lists of election inspector nominees are not received from the political parties, appointments are made without regard to party affiliation. Wis. Stat. § 7.30 (4) (b).

As a municipal clerk, you should contact the appropriate statutory committee person or voluntary county party chairperson before the first week in November and advise him or her of their responsibility to submit a list of nominees to the Mayor, Village President or Town Board Chairperson. Do not hesitate to recommend election inspectors who have proven to be effective workers.

If the list of appointed election inspectors is emailed in order to comply with the statutory deadline, Administrative Rule EL § 6.04(3) requires that, in addition, the signed original of the document must also be received, either postmarked or delivered by, the filing deadline.

Determining Party Imbalance at Each Polling Place

- a. The party whose candidate for Governor President at the last general election received the most votes *at that polling place* (the “dominant” party) is entitled to one extra inspector.
- b. Determine party imbalance for each polling place in anticipation of receiving lists of inspector nominees from the political parties.

Example:

Republican candidate for governor received the most votes at the polling place at the last general election. Seven total inspectors are needed. Positions available: Four Republican positions and three Democratic positions.

- c. Positions identified as Republican and Democratic remain as such for the duration of the term.

When Lists are Received from One or Both Parties:

Clerks are advised to contact each party’s nominees to confirm their willingness to serve before submitting the names to the governing body for appointment.

- a. Document any nominees not willing to serve and provide the Party those names.
- b. The clerk may also inquire as to willingness to serve as a chief inspector and arrange for training for those who are interested.

Note: Refusal to serve as a chief inspector is not grounds for nonappointment.

Appointments must be made from the lists submitted by the parties for as long as election inspector positions are available. If party lists have been timely received, positions must be filled from the lists until the names on those lists have been depleted.

- a. Nominees must be qualified electors of the county in which they reside.
- b. The lists may also designate individuals as first choice nominees, who must be appointed first. Wis. Stat. § 7.30 (4)(b)(1).

- 1) First choice nominees may be designated by a symbol, such as a star, asterisk or checkmark.
- 2) If “first choice” is not indicated, but the names are numbered, they should be appointed in numerical order.
- 3) If the governing body has good cause not to appoint an individual whose name is submitted as a “first-choice” nominee, it may request the WEC authorize non-appointment, and may not decline to appoint such individual until receiving the WEC’s authorization. Wis. Stat. §7.30(4)(e).

Appointment of persons not appearing on the lists may only occur after the lists have been depleted. Note: The parties have sole discretion to determine nominee criteria.

When party lists are received, the clerk must adhere to “party imbalance” *at each polling place*. The dominant party is entitled to one more election inspector at that polling place than the other party.

Example: Five election inspectors are to be placed at a polling place. The Democratic candidate for governor or president received the most votes at the polling place at the last general election. This means that three positions are Democratic and two positions are Republican. The governing body appoints three names from the Democratic list and two names from the Republican list.

It is possible that the dominant party will differ between polling places in the same municipality.

If Lists are Received but are Insufficient:

If the Democratic and Republican parties’ lists are insufficient or the nominees decline to serve in the positions available for that party’s nominees, the remaining positions are filled without regard to party affiliation.

Example: Seven inspectors are to be placed at a polling place. The Republican candidate for governor or president received the most votes at the polling place at the last general election. This party imbalance gives the Republican Party the extra inspector so the ratio is four Republican positions

to three Democratic positions. If sufficient lists from both parties were submitted, four names would be appointed from the Republican list and three names would be appointed from the Democratic list.

However, in this example there are only three names on the Republican list and no Democratic list was submitted. The governing body appoints the three Republican names and the Mayor, Village President or Town Board Chairperson nominates other qualified individuals, regardless of party affiliation, and submits the names to the governing body for appointment to the remaining four positions.

If the Democratic Party submitted a list with two names, the two Democratic nominees and two unaffiliated nominees would be appointed along with the three Republican nominees.

The parties may supplement their initial list of nominees at any time during the term. Wis. Stat. § 7.38.

If No Lists are Received:

If no lists are submitted, the Mayor, Village President or Town Board Chairperson nominates other qualified individuals, regardless of party affiliation, and submits the names to the governing body for appointment. All appointments are made without regard to party affiliation. Wis. Stat. § 6.875.

Appointment of Inspectors by Governing Body

Appointment of inspectors must occur no later than December 31st of an odd-numbered year. Wis. Stat. § 7.30 (4)(a).

- a. The clerk submits the party lists to the governing body.
 - 1) Advise the governing body of the requirement to appoint any first-choice nominees first.
 - 2) Advise the governing body if lists are insufficient so that unaffiliated inspectors may be nominated.
- b. The governing body must appoint at least as many inspectors as there are positions to be filled.

- c. Appointments are made from the party lists until each party's positions have been filled or until the lists are depleted.
 - d. If positions remain open and the lists have been depleted, "unaffiliated" inspectors may be appointed to the remaining positions.
 - e. Additional inspectors may be appointed as alternate.
2. Inspectors must be able to read, write and understand the English language. As municipal clerk, you may administer an examination, if required by the governing body, to all persons nominated as election inspectors to prove their ability to read, write and understand the English language, and their general knowledge of the election laws. Wis. Stat. § 7.30 (2)(c).
 3. Inspectors are required to receive training from the municipal clerk within the two years preceding the election event at which the inspector intends to work. Wis. Stat. 7.315 (b)(1).
 4. An inspector may not be a candidate for any office to be voted on at an election at which they serve. Wis. Stat. § 7.30 (2)(a).
 5. Election inspectors must be qualified electors of the county served by the polling place in which they work.
 - a. The chief inspector(s) must be a qualified elector of the municipality, except if a qualified candidate is not available. Wis. Stat. § 7.30 (2)(a).
 - b. A high school poll worker must be a resident of the municipality. Wis. Stat. § 7.30 (2)(am).
 6. The municipal clerk should identify any election inspectors appointed by one of the two major political parties. The chief inspector must ensure that any Election Day tasks which require completion by two election inspectors are represented by each party, whenever possible. Wis. Stat. § 7.30 (2)(a).

Term of Office

Election inspector terms run from January 1 of an even-numbered year through December 31 of the subsequent odd-numbered year. Wis. Stat. § 7.31 (4).

Filling Vacancies

Permanent vacancies in Republican or Democratic positions are filled by the municipal clerk from the remaining names on the lists submitted by the parties or from names submitted by the parties to supplement the original lists.
Wis. Stat. § 7.30 (2)(b), (4)(d).

Temporary vacancies created by a candidacy, illness or other temporary causes can be filled by the municipal clerk to serve for one election only.

1. A party that did not submit a list by November 30th may not submit a list of names after that deadline.
2. If there are no lists or the lists have been exhausted, the municipal clerk may fill the vacancy without regard to party affiliation.
3. If an unaffiliated inspector vacates his or her position, and the party entitled to that position has submitted supplemental names, the vacancy is filled from the supplemental list.
 - a. If no supplemental list has been submitted since the unaffiliated appointment was made, the clerk may fill the vacancy with another unaffiliated inspector.

Training Election Inspectors

1. Election inspectors are required to attend training every two years and must have attended training within two years of any election at which they serve.
 - a. It is the responsibility of the municipal clerk to see that all election inspectors are provided with adequate training for the performance of their duties.
 - b. You may remove an inspector for failure to attend required training sessions.
 - c. Absence from training is neglect of duty, one of the grounds for dismissal.
2. The Wisconsin Elections Commission suggests, at a minimum, the clerk go over the Election Day duties listed in the Election Day manual.

Wis. Stat. § 7.315.

Chief Election Inspectors

Designating a Chief Inspector

The municipal clerk designates one of the inspectors as chief inspector for the polling place. This individual acts as liaison between the election inspectors and the municipal clerk and is in charge of the polling place on Election Day. The chief inspector must be a qualified elector of the municipality, except when no qualified candidate is available. The chief inspector is counted in the overall odd number of inspectors at the polling place. EL 11.01(1).

Although the municipal clerk ultimately designates the chief inspector, care should be taken to maintain the party imbalance.

1. If all positions at the polling place have been filled from party lists, clerks are encouraged to select one of the party appointees as the chief inspector.

R R (R) D D or R R R (D) D

2. If none of the party appointees are qualified as chief inspectors, select a qualified unaffiliated inspector. (Keep party representation even.)

R R U D D

3. If you have mixture of affiliated and unaffiliated inspectors, choose any qualified inspector.

4. If it is necessary to remove an inspector in order to insert a qualified chief inspector, replace an unaffiliated inspector if possible.

Chief Inspectors: Municipal Residents vs. County Residents

Wis. Stat. §7.30(2)(a) indicates a preference for the CI to be a municipal resident, but offers an exception: "...each chief inspector shall be a qualified elector of the municipality in which the chief inspector serves. *If no qualified candidate for chief inspector is available...the person so appointed need not be a qualified elector of the municipality...*"

Again, the municipal clerk chooses the chief inspector, but the statute confines the selection to municipal residents unless no qualified municipal resident is available. This requirement intertwined with the requirement to maintain party imbalance can be a challenge to implement.

It is recommended that you choose a chief inspector using the following priority order:

1. Affiliated municipal resident

If there is an affiliated inspector who is a resident of the municipality who is trained or willing to be trained as a CI, arrange for training and use for CI. Maintain party imbalance at the polling place.

2. Unaffiliated municipal resident

If no affiliated municipal resident is trained or willing to be trained as a CI, arrange for training of an unaffiliated municipal resident. If this means replacing an affiliated inspector, keep the party representation even.

R R (U) D D

3. Affiliated resident of the county

If there is no affiliated or unaffiliated municipal resident trained or willing to be trained as a CI, arrange for training a willing affiliated inspector who is a resident of the county.

4. Unaffiliated county resident

If there is no municipal resident or affiliated county resident trained or willing to be trained, arrange for training of a willing unaffiliated county resident. If this means replacing an affiliated inspector, keep the party representation even.

R R (U) D D

Training of Chief Inspectors

Chief inspectors are required to attend “Baseline” training in order to be initially certified. Attending Baseline training certifies the attendee as a chief inspector for the current term. In order to recertify for the following term, a chief inspector must attend at least six hours of Wisconsin Elections Commission approved continuing election education during the current term. (Attendance at Baseline training also counts toward recertification for the following term.) Please see the agency website for a list of approved methods of accumulating hours toward recertification of chief inspectors. Wis. Stat. § 7.31(4). EL 11.02.

The county or municipal clerk conducting recertification training for other clerks or election inspectors must submit an agenda or course outline to the Wisconsin Elections Commission for approval. EL 11.03(3). Training hours of election inspectors are documented and tracked by the municipal clerk. Chief inspectors may be given a self-administered evaluation as part of training, the results of which will not affect the chief inspector's appointment or qualifications to serve. The results do not have to be reported to the WEC.

High School Student Election Inspectors

State law permits certain qualified high school students to work at the polls on Election Day. Students must be enrolled in a public, private, tribal school, **or private home-based educational program**. Students may decide for themselves to serve as election inspectors or in response to a school sponsored initiative. Civics, government or political science teachers may see this as an opportunity for a real-life learning experience. Student organizations may find this to be an attractive form of community service and an interesting learning opportunity. Allowing students to work as election inspectors provides an opportunity for students to become involved in the election process and also offers clerks another resource for filling election inspector positions. Students with foreign language skills can serve at polling places where voters may need assistance understanding the ballot, voting equipment and other election-related materials. In many locations, Hmong and Spanish speaking voters need special assistance. Municipal clerks are encouraged to work with their local high schools to enable students to serve as election inspectors.

Qualifications

A student qualifies to serve as an election inspector if the student:

1. Is 16 or 17 years of age
2. **Is enrolled in grades 9 to 12 in a public, private, tribal school, or private home-based educational program.**
3. Has at least a 3.0 grade point average or the equivalent
4. Has the written approval of the student's parent or guardian
5. Has the written approval of the principal of the school in which the

student is enrolled, if the student has less than a 3.0 grade point average

6. Is a resident of the municipality of the polling place at which he or she serves

Written Authorization

Before a student may be appointed as an inspector, the municipal clerk shall obtain written authorization from the student's parent or guardian and from the principal of the school where the student is enrolled, if the student has less than a 3.0 grade point average. Upon appointment, the municipal clerk shall notify the principal of the school where the student is enrolled of the date of the election at which the student will serve.

Restrictions

1. A student may only serve as an inspector at a polling place if at least one inspector, other than the chief inspector, is a qualified elector of the municipality
2. A student may not serve as chief inspector at a polling place
3. A student serving as an election inspector may not challenge any person offering to vote

Wis. Stat. § 7.30 (2)(am).

Election Registration Officials (EROs)

Appointment and Qualifications

Municipal Clerks may appoint Election Registration Officials to conduct voter registration at the polling place, at residential care facilities during the open registration period, and in the clerk's office during in-person absentee voting. An ERO must be a qualified elector of the county for the polling place, residential care facility or clerk's office at which they serve. However, a non-resident clerk or deputy clerk may serve as an ERO in case of a vacancy.

EROs are appointed to a two-year term, which runs from January 1 of an even-numbered year through December 31 of the subsequent odd-numbered year. The ERO is required to take the same training as election inspectors. If an ERO will be

filling in for an election inspector (lunch, breaks, etc.), he or she must also be appointed as an election inspector.

Duties

If appointed, EROs carry out the registration duties at the polling place on Election Day, in the clerk's office during in-person absentee voting and in residential care facilities during open registration. At particularly high-turnout elections, EROs ease the election inspectors' workload. Wis. Stat. § 6.28(1)(a).

Training Requirement

EROs are required to receive training from the municipal clerk within two years of any election at which they serve and take an oath. It is the responsibility of the municipal clerk to see that EROs are provided with adequate training for the performance of their duties.

Wis. Stat. § 7.315 (4).

Special Voting Deputies

Special Voting Deputies (SVDs) conduct absentee voting at certain care facilities. SVDs are one of the methods by which absentee voting may be conducted in qualified care facilities and retirement homes. Wis. Stat. § 6.875.

A person who is appointed an SVD must:

1. Be a qualified elector of the county
2. Must attend training
3. May not currently be employed by the facility
4. May not have been employed by the facility within two years of the appointment
5. May not be an immediate family member of anyone currently employed by the facility or employed by the facility within two years of the appointment

Selection and Appointment

1. Nominations for special voting deputy positions may be submitted by the two dominant political parties at the same time as election inspector nominations are submitted. If no nominations are submitted, then the municipal clerk may appoint qualified electors of the municipality of his or her choosing, without regard to party affiliation.
2. The two deputies designated to conduct absentee voting at each facility should be affiliated with different political parties whenever possible.
3. SVDs are appointed by the municipal clerk for one election cycle.
4. At the discretion of the municipal clerk multiple pairs of SVDs may be assigned to conduct absentee voting at a care facility due to the size of the facility and/or large numbers of registered voters.

SVD Training

Special Voting Deputies are required to attend training every two years, and must have attended training within two years of any election at which they serve. The Wisconsin Elections Commission has developed a manual for clerks to use to train Special Voting Deputies. The *Absentee Voting in Residential Care Facilities and Retirement Homes* manual is available on the agency website. Wis. Stat. § 7.315 (1)(a).

Greeters and Tabulators

Greeters

Each municipality may appoint one additional inspector regardless of party affiliation to act as a greeter and substitute for other officials as necessary on Election Day. Greeters may not participate in the canvass after the polls close. Wis. Stat. § 7.30(1)(b).

Tabulators

Not less than 30 days before an election, the governing body may, by resolution, authorize the municipal clerk to select and employ tabulators. Tabulators are to

assist and be under the direction of the election inspectors after the polls close.
Wis. Stat. § 7.30(3)(b).

Oaths of Office

1. All election officials are required to take and file an oath.
2. Municipal clerks administer the oath of office at the time of appointment or at a training session to:
 - a. Election Inspectors (including Chief Inspectors)
 - b. Election Registration Officials
 - c. Special Voting Deputies
 - d. Greeters
 - e. Tabulators
3. The oath must be filed before the commencement of the official's duties.
4. The oath is valid for the entire two-year term of the appointment.
5. Substitute inspectors may be given the oath by another inspector, preferably the chief inspector, on Election Day at the polling place.
6. The following oaths may be obtained from the agency website or directly from the Wisconsin Elections Commission.
 - a. *Official Oath (EL-154)*: Filed by Election Inspectors, Chief Inspectors and Election Registration Officials , Greeters and Tabulators.
 - b. *Oath of Special Voting Deputy (EL-155)*: Filed by Special Voting Deputies.

Wis. Stat. § 7.30 (5).

Removing Election Officials

As municipal clerk, you have the authority to dismiss an inspector summarily if he or she is found to lack the qualifications for the position, neglects his or her duties

during an election, electioneers, or commits official misconduct. Wis. Stat. § 7.15(1)(f). However, in the interest of fairness, a hearing before the governing body is recommended before dismissal. Where it is found that an inspector has intentionally failed to properly endorse a ballot or intentionally given a voter a ballot not properly endorsed, that inspector should be suspended immediately by the chief inspector pending the filing of formal charges by the District Attorney. The chief inspector needs to inform the municipal clerk of such an action. The clerk fills the temporary vacancy for that election and schedules a hearing before the governing body to hear the case before taking final action.

Frequently Asked Questions

1. *What if a trained election inspector is not available to work at an election, and I have to use an inspector who has not been trained within the last two years?*

In the event that a trained election inspector has an emergency and can't work on Election Day, an inspector who has not received training may be appointed to serve as an inspector, but not as a chief inspector, Election Registration Official or Special Voting Deputy. The appointment of an untrained individual is for a specific election only, and the untrained individual may only be appointed once in a two-year period. If the clerk is aware of the vacancy prior to Election Day, the clerk must provide some type of election training to the election inspector.

2. *What should I do if there is an emergency and I do not have a certified chief inspector?*

You should contact an Elections Specialist at the Wisconsin Elections Commission who will direct you on the actions to be taken. The Wisconsin Elections Commission recommends arrangements should be made to have alternate trained chief inspectors available in case of emergency.

3. *What is "Baseline" training?*

Baseline training is a two or three-hour chief inspector training course on basic election-day administration conducted by Wisconsin Elections Commission staff or WEC certified clerk-trainers. The Baseline class is also available online

in the WEC Learning Center. Baseline training is required for initial certification as a chief inspector.

- 4. I have a person who is interested in becoming a certified chief inspector. What does the person have to do to qualify as a certified chief inspector for the current term?*

The individual may accomplish certification by attending the Baseline training. Attendance at Baseline training will certify the new chief inspector for the current term. The newly certified chief inspector is eligible to serve at all subsequent elections during the current term.

- 5. My chief inspector is certified for the current term. What else must he or she do in order to recertify for the next term?*

In order to recertify for the next term, the inspector will need to accumulate a minimum of six hours of Wisconsin Elections Commission approved training during the current term.

VOTING EQUIPMENT

Summary

The proper use and security of voting equipment is integral to ensuring accuracy and maintaining voter confidence in the electoral process. Voting equipment accuracy and security has long been an issue of extreme importance for both election officials and voters. Elector confidence in the equipment used to count votes is an aspect of elections administration which continues to grow in significance. Careful execution and documentation of the procedures detailed in this section will alleviate many concerns, ensuring that the voting equipment used in your municipality is reliable and accurate.

Voting Equipment in Wisconsin

In the State of Wisconsin, not every municipality uses the same type of voting equipment. State law grants a certain amount of leeway when mandating voting equipment usage. This means that some municipalities use hand-count paper ballots, some use optical scan equipment, and some use direct recording electronic (DRE) equipment. Many municipalities use a combination of these equipment types.

1. Municipalities with a population of 7,500 or more are required to use electronic voting equipment in every ward in every election. Wis. Stat. §5.40(1). Electronic voting equipment is equipment that tabulates votes electronically and includes both optical scan and DRE. Wis. Stat. §5.02(1c), (24g), (24w)(a). Ballot marking devices, such as the AutoMARK, ExpressVote, and ClearAccess do not electronically tabulate votes. Therefore, these devices are not considered electronic voting equipment.
2. All polling places must be equipped with at least one accessible voting equipment component to permit all voters to vote privately and independently. HAVA §301(a)(3)(A). More information on accessible voting equipment can be found in the Accessibility section of this manual.

Voting Equipment Certification and Approval

Before any voting equipment system can be marketed or sold in the State of Wisconsin, the manufacturer must gain federal certification through a testing

process administered by the U.S. Elections Assistance Commission (EAC). Following receipt of federal certification, voting equipment manufacturers must also obtain approval from the Wisconsin Elections Commission before making a system available for sale in the State of Wisconsin.

Federal Certification

42 U.S.C. §15301, HAVA §231(a)(1), HAVA §301(a)(1)(A).

In order to achieve federal certification as required by the Help America Vote Act (HAVA), a voting equipment manufacturer must:

1. Apply to the U.S. Election Assistance Commission (EAC) for testing and certification of the voting system.
2. Submit the equipment to a Voting System Test Laboratory (VSTL), which reviews and tests all firmware, software, and hardware. Following the rigorous test campaign, the VSTL issues a report to the EAC.
3. Receive an EAC-accredited certification number. The EAC issues certification numbers after reviewing the VSTL reports and confirming that the voting equipment conforms to the Voluntary Voting System Guidelines established by the EAC.

State Approval

In order to be granted Wisconsin state approval, a voting equipment manufacturer must:

1. Submit an application to the State of Wisconsin.
Wis. Admin. Code §7.01(1).

A voting equipment manufacturer may apply to the State of Wisconsin if it has received federal certification. However, any voting system submitted for approval must be federally tested and meet all standards put forth by the EAC. Wis. Admin. Code §7.01(1)(e).

2. Prepare the voting system for testing by WEC staff in three mock elections.

The voting system must pass testing using election definitions from a General Election, Partisan Primary, and Presidential Preference Election. Each of the

three elections contains a special contest. Wis. Stat. §5.91, Wis. Admin. Code §7.02(1).

3. Hold a public demonstration. Wis. Admin. Code §7.02(2).
4. Submit equipment to the Voting Equipment Review Panel (VERP) for review. The VERP is a group of municipal clerks, county clerks, and representatives from advocacy groups who gather to review and offer feedback on voting systems being tested by WEC. Wis. Admin. Code §7.02(2).
5. Receive approval regularly scheduled meeting of the Wisconsin Elections Commission. This approval will permit the use of the voting system for any election in the State of Wisconsin. Wis. Stat. §5.91.

Approved Voting Equipment Vendors

The following is a list of all manufacturers of voting equipment currently approved for use in the State of Wisconsin. Approved voting equipment version numbers and vendor contact numbers for each of the vendors can be found on the agency website.

1. Clear Ballot Group
2. Dominion Voting Systems
3. Election Systems & Software (ES&S)
4. Premier Election Solutions
(Serviced by Dominion Voting or Election Systems & Software)
5. Populex Corporation
6. Sequoia Voting Systems (Owned by Dominion Voting)
(Programming and supplies provided by Command Central)

Pre-Election Electronic Voting Equipment Testing

Wisconsin statutes require that all municipalities test the software of electronic voting equipment for correctness and accuracy prior to every election. The purpose of testing electronic voting equipment is to ensure that the equipment will correctly tabulate votes for all offices and referenda. Wis. Stat. §5.84(1).

Public Notice

The testing of electronic voting equipment, either DRE or optical scan equipment, shall be open to the public.

1. The test may not be conducted more than ten days before Election Day.
2. Public notice of the time and location of the testing shall be given by the clerk at least 48 hours before the test is to take place.

Procedure

In order to conduct a pre-election test for accuracy, the municipal clerk must create a group of test ballots, often called a test deck. A test deck contains a predetermined number of valid votes for each candidate and referendum. While there is no requirement for the number of ballots to be included in the test deck, WEC recommends testing as many vote combinations as possible, as detailed below. The test deck must reflect all of the required testing components described in this section for optical scan equipment, direct recording electronic equipment, and ballot marking devices.

1. Optical Scan Equipment
 - a. Ballots should be marked to reflect a pre-determined number of valid votes for each candidate and referendum.
 - b. Pre-marked ballots shall be run through the optical scan voting unit.
 - c. The tabulation totals from the results tape for the pre-marked ballots are then compared to the pre-determined number to verify the voting equipment is tabulating properly.
2. Direct Recording Electronic (DRE) Equipment

- a. Votes should be cast on the DRE unit in a manner reflecting a pre-determined number of valid votes for each candidate and referendum.
 - b. The printout after the tabulation of the votes cast will then be compared to the pre-determined number to verify the voting equipment is tabulating properly.
 - c. At least two individuals should participate in the DRE test to ensure votes selected on the test deck are entered correctly in the voting system.
3. Ballot Marking Devices (BMDs)
- a. Any test deck created for the purposes of testing optical scan voting equipment must also contain ballots printed from the municipality's ballot marking device, where applicable. BMD ballots should be run through the tabulation equipment along with ballots marked by hand.
 - b. Ballot marking devices approved for use in Wisconsin
 - i. AutoMark
 - ii. Clear Access
 - iii. ExpressVote
 - iv. ImageCast Evolution

4. Errorless Count Requirement

- a. If an error is detected during the testing, the municipal clerk shall determine the cause and correct the error.
- b. The clerk must make an errorless count before the electronic tabulating equipment is approved by the clerk for use in the election.

Note: The WEC recommends that clerks formulate a test deck that is unique to the municipality, and refrain from using test decks provided by the manufacturer/programmer. This is to ensure any errors not discovered by the programmer will be uncovered by the clerk during the test.

Testing Protocol

When testing voting equipment prior to every election, each candidate for every office, for every party, as well as every referendum needs to be tested. Wis. Stat. §5.84(1). Please refer to the following information for a breakdown of specific testing requirements. For questions related to programming, clerks should contact their vendor. Questions on testing protocol and requirements can be addressed to WEC staff.

1. Overvotes

- a. Overvotes are votes in excess of the number allowed by law. Test decks need to include overvotes for every office and referendum on the ballot.
- b. Voting equipment must be programmed to automatically reject ballots with overvotes.
- c. Whether ballots with overvotes are remade by election inspectors or overridden on the equipment is a decision made by each municipality.

2. Crossover Votes

- a. Crossover votes are votes that cross party lines in an election where doing so is strictly prohibited, e.g. the Presidential Preference and Partisan Primary.
- b. When creating a test deck for these elections, clerks must include crossover votes on the ballots to be tested.
- c. Crossover votes for every party and every candidate should be included.

3. Blank Ballots

- a. Blank ballots are ballots that have no votes recorded.
- b. A blank ballot should be included in every test deck to ensure that they are rejected by the voting equipment. A message to notify the elector that no votes have been recorded promptly follows ballot rejection.

4. Write-in votes

- a. On DRE equipment, the write-in function for each office is to be tested to ensure that it is functioning properly and recording choices written in by voters.
- b. On optical scan voting equipment, it should be tested by including ballots containing write-in votes in the test deck. The tabulated results must confirm a correct write-in vote count. For optical scan equipment with a write-in diversion bin, the write-in report also serves to determine that ballots containing write-in votes for each office are properly separated into the write-in bin.

5. Partisan Primary

The clerk shall test for one or more ballots that have votes cast for a candidate of more than one recognized party are rejected. Please see the information above related to crossover votes.

6. General Election

Straight party voting is only allowed for military and overseas voters on write-in absentee ballots.

Note: Straight party ballots may also be remade by election inspectors on Election Day in order to be tabulated by voting equipment or may be counted by hand.

Election Day Zero-Count Requirement

On Election Day, before any ballots have been cast on the electronic voting equipment, and prior to the opening of polls, election officials shall witness a test of the tabulator by securing a printed results “zero tape” showing a zero count for every candidate and referendum. Wis. Stat. §5.84(2).

Security Procedures for Electronic Voting Systems

The WEC has developed a series of security procedures for electronic voting systems. These procedures should be followed for each election, recount, or referenda. For any other situation in which voting systems or memory cards must

be accessed, clerks should also review the following. These procedures apply to all memory devices, including prom packs, memory cards, USB memory sticks, and any other removable memory devices that can be programmed or function to store and transfer ballot images or tabulation data. These procedures are intended to protect against malicious breaches to electronic voting equipment components as well as provide transparency of justifiable access.

A video tutorial on voting equipment testing and security is posted on the WEC website.

General Electronic Voting System Security Procedures

1. Throughout the life of the electronic voting system, the municipal or county clerk maintains control of all memory devices and keys to the voting systems. Access to voting equipment is to be strictly controlled and granted in a secure manner at all times. Document authorized access to secured components by election officials. This documentation serves as a chain of custody showing who has accessed the voting equipment outside of election day, when, and why.
2. For each election, there shall be a separate, written chain-of custody record for every programmed memory device. All memory devices used with an electronic voting system have a unique and permanent serial number. Each transfer of the memory device must be logged in the written chain-of-custody record. Information collected should include name(s), date of access, reason, time access keys were taken, and time access keys were returned.
3. For each election, the municipal clerk shall record on the Inspectors' Statement (EL-104), or other WEC approved security documentation, which memory devices and which serialized tamper-evident seals are assigned to particular voting stations or units.

Election Day Procedures

1. Before any ballots are cast on any voting system, the integrity of the tamper-evident seals shall be verified by the chief election inspector. This is done to confirm that the tamper-evident seal serial number on the Inspectors' Statement (EL-104) matches the tamper-evident seal serial number placed on the electronic voting equipment. Once the polls have opened, the chief

election inspector shall perform the same verifications at regular intervals. After the close of polls, the chief inspector conducts a final inspection of the voting equipment seals, noting the results in the inspectors' statement.

2. After the polls have officially closed at 8:00 p.m., election officials follow the proper procedures to suspend the voting and tabulating components of the voting equipment. Election officials must then print a results report prior to breaking any seal on the voting system and before the removal of the memory device from any piece of voting equipment.
3. Following the printing of the results report, the memory device shall be secured in a separate, tamper-evident sealed container or envelope by the chief election inspector. Alternatively, the device may remain sealed in the voting system.

Ballot Security

1. The municipal clerk or board of election commissioners shall securely maintain all ballots from the time of receipt from the printer or county clerk through delivery to the polling place.
2. A ballot container shall be considered "sealed" or "locked" only if no voted ballot may be removed from or deposited into the container, and no other form of access to the ballots inside may be gained without leaving evidence of that entry or access into the container.
3. Ballot bags shall be sealed with a tamper-evident seal on which a serial number must be printed. The serial number shall be recorded on the signed Ballot Container Certification (EL-101) attached to the bag. Serial numbers of the seals shall also be recorded on the Inspectors' Statement (EL-104).
4. Ballots and other election materials should be returned to the municipal clerk.

Secure Storage of Voting Equipment

The need for proper voting equipment security does not stop at the end of election day. Once the polls have closed, municipal and county election officials must ensure that the voting equipment used in their jurisdiction is stored securely until the next election. This means more must be done than simply putting the

equipment out of the way somewhere in the clerk's office. WEC recommends placing voting equipment in a locked and secured area within the clerk's office that is only accessible by the clerk or another authorized individual. Voting equipment can be stored in the municipal clerk's office, the office of the county clerk, or at an agreed upon, and secure, third location. Wis. Stat. §7.21(5).

Alternative Security Procedures

The WEC recognizes the need for flexibility when implementing these security procedures and acknowledges that alternative means may be used to achieve and ensure the same level of security. Therefore, the WEC will consider requests from municipalities and counties to implement alternative security procedures. The request should describe the proposed security procedures in detail and include any documentation such as logs, flow charts, and certification forms. Submissions will be reviewed with approval granted on a case-by-case basis.

Post-Election Audit

Wisconsin statutes require a post-election audit of the performance of each voting system used in the state of Wisconsin. The audit is designed to assess how electronic voting systems performed on Election Day through a hand-count of electronically tallied ballots. The audit is required following each General Election. However, nothing in these procedures prevents a municipality or county from conducting an audit after other elections or from auditing a larger number of voting machines or reporting units than those selected by the WEC or required under these procedures. Wis. Stat. §7.08(6).

Selection

1. A certain percentage of statewide reporting units will be randomly selected by the Wisconsin Elections Commission, the Wednesday following the November general election. This is done as part of a publicly noticed meeting.
 - a. At least five reporting units for each type or version of voting system used throughout the state will be selected.
 - i. If five reporting units are not represented in the original 5% total, additional reporting units will be selected until all types or versions are represented.

- b. A minimum of one reporting unit from each of Wisconsin's 72 counties are also chosen. Additional reporting units will be randomly chosen until one from each county is selected, if the original selection does not produce a diverse enough pool of counties.
2. Four contests on the ballot will be selected. The highest office on the ballot, president or governor, is selected automatically. The remaining three contests will be drawn by lot from all other contests on every ballot statewide. An exception has been made for the office of State Senate. While no more than one-third of the ballots statewide will ever contain the office of State Senator, the Wisconsin Elections Commission has determined that this office should be subject to audit. An alternate contest will be chosen for reporting units where State Senate is not a contest on the ballot.

Notification

1. Municipalities with reporting units selected for audit will be notified the day following the election.
 - a. Affected county clerks will also be notified.
 - b. It is the responsibility of the municipal clerk to make arrangements with the county to have election materials returned for the purpose of the audit following the county canvass. Materials needed for conducting the audit include voter lists, inspectors' statement, tally sheets, reports printed or generated by the voting systems, ballots, and any other required materials.
2. The municipal clerk and county clerk may choose to have the county conduct the audit and the county may choose to conduct the audit following the county canvass.
3. The audits must be completed on or before the last Wednesday in November. Municipalities may request an extension for cause. WEC staff will review all extension requests for possible approval on a case by case basis. With the exception of approved extensions, all audits must be completed prior to certification of the results by the Wisconsin Elections Commission.

4. The audit is considered a public meeting and proper notice shall be posted or published at least 48 hours in advance.

Procedure

A list of procedures, instructions, and documentation forms will be provided to municipalities selected for audit at the time of notification. Generally, the procedure for conducting a post-election audit is as follows:

1. Two individuals shall conduct independent counts of the ballots from the voting system. Note that for direct recording electronic systems, the official ballots are the voter verified paper audit trail.
2. Auditors should only count votes as the equipment would have counted them. **Voter intent is not a factor**. Auditors should document in the minutes any ballots where it is unclear how the voting system would count the ballot. The auditors should include in the minutes how they counted the ballot as well as all reasonable alternatives on how the machine may have counted the ballot.
3. The individual tallies shall be compared to each other and any discrepancies shall be resolved to an agreed upon final hand-count tally total. If the hand counts differ from each other, the paper records/ballots must be recounted.
4. The final hand-count tally total shall then be compared to the Election Night results tally tape and discrepancies noted.
5. Each municipality conducting an audit must submit the designated reporting form(s) and supporting documents from the audit, including tally sheets, to the WEC to indicate that the audit was completed and whether any discrepancies were found.
6. WEC staff will request that the vendor investigate and explain the reasons for any unexplained differences between the voting equipment tally and the paper record tally.
 - a. Should the vendor fail to provide a sufficient written explanation, including recommendations for preventing future occurrences, within 30 days of notification, the WEC will suspend approval of all voting systems manufactured or serviced by the vendor in Wisconsin.

- b. This suspension will be implemented immediately, pending an appeal by the manufacturer to the Board, which must be filed within 30 days.
 - c. Investigations of discrepancies shall be open and transparent, with active involvement of interested parties.
7. Based upon the results of the audit, the WEC may, at its sole discretion, choose to re-test the voting system per chapter EL 7 of the Wisconsin Administrative Code. The test is a condition of continuing approval of the voting system.

Frequently Asked Questions

1. What is a voter-verified paper audit trail?

Wisconsin Stat. §5.91(18) requires that all direct recording electronic (DRE) voting systems produce a complete, permanent paper record showing all votes cast by the elector. The voter-verified paper audit trail (VVPAT) is considered the official ballot and is to be used in a recount of each vote cast by the elector.

2. Who pays for the purchase of voting equipment?

Municipal clerks are responsible for the purchase and maintenance of voting equipment. Wis. Stat. §7.15(1)(b). In some situations, an arrangement is reached between the county and the municipality to share the cost of the equipment. Municipal and county clerks should discuss purchasing options.

3. Who is responsible for storing equipment after an election?

Either the municipal or county clerk must store the voting equipment in a locked and secured location. Wis. Stat. §7.21(5)

4. What should be done with the zero tape while voting occurs on election day?

The zero tape should be left attached to the roll of paper, then rolled or folded and attached to the tabulator in the most secure manner possible.

5. *Can we reuse memory cards?*

Nothing prohibits reuse of memory cards, though municipalities must comply with Wis. Stat. §7.23:

“Detachable recording units and compartments for use with tabulating equipment for an electronic voting system may be cleared or erased 14 days after any primary and 21 days after any other election. Before clearing or erasing the units or compartments, a municipal clerk shall transfer the data contained in the units or compartments to a disk or other recording medium which may be erased or destroyed 22 months after the election to which the data relates. The requirement to transfer data does not apply to units or compartments for use with tabulating equipment for an electronic voting system that was approved for use prior to January 1, 2009, and that is not used in a federal election.

If a recount is pending or if the time allowed for filing a recount petition at any election or an appeal or petition for review of any recount determination or decision at an election has not expired, no materials may be destroyed until after the recount is completed and the applicable time period has expired. In addition, if there is litigation pending with respect to a recount at an election, materials may be destroyed and recording units or compartments may be cleared or erased only by order of the court in which litigation is pending. Upon petition of the attorney general or a district attorney or U.S. attorney for the affected jurisdiction, a circuit judge for the affected jurisdiction may order that specified materials not be destroyed or that specified recorders, units or compartments not be cleared or erased as otherwise authorized under this subsection until the court so permits.”

ACCESSIBILITY

Summary

Accessible polling places that ensure privacy and independence for all voters casting a ballot not only benefit elderly voters and voters with disabilities but act as a key to developing and maintaining public trust in the accessibility and transparency of the elections process for all participants. Municipalities must have polling places that are fully accessible, which includes having at least one accessible voting equipment component. Wis. Stats. §§ 5.25(4)(a) and 5.40(1). Municipal clerks are required to make reasonable efforts to comply with requests for voting accommodations made by individuals with disabilities. Wis. Stat. § 5.36.

Polling Place Accessibility

In order to comply with this requirement, municipal clerks are required to submit a completed *Polling Place Accessibility Self-Assessment (EL-501)* indicating accessibility compliance. A copy of this survey is available on the agency website where it may be submitted electronically. Wis. Stat. § 5.25(4)(a).

1. A New Polling Place Self-Assessment must be submitted for WEC staff to add the new polling place to WisVote.
 - a. A self-assessment must also be submitted to document any changes to the voter's route if there are renovations or the voting room changes at an existing polling place.
2. If it is determined that a polling place is inaccessible, the municipal clerk and the governing body must determine how to make the polling place accessible or find a new location.
3. Polling place accessibility should be reviewed periodically.

The Wisconsin Elections Commission also offers a number of suggestions that will make the voting process easier and ensure privacy for elderly people and people with disabilities. Wis. Stat. § 5.25(4)(a). These include:

1. Making sure the polling area has adequate lighting.

2. Providing page magnifying devices and signature guides.
3. Having at least one pad of paper and a pen to communicate with individuals who are deaf or hard of hearing.
4. Making seating available for elderly and disabled voters waiting in line.
5. Having signs and arrows directing voters where to check-in, register, vote a ballot, and cast a ballot.

Accessible Voting Equipment

All polling places must be equipped with at least one accessible voting component to permit all voters to vote privately and independently. This accessible component, a device approved by the Wisconsin Elections Commission to provide independence and privacy to voters with disabilities, must be available for all elections. Refer to the Voting Equipment section of this manual for more information or visit the agency website. Wis. Stat. §5.40(1).

Procedures

1. Municipal clerks must ensure that accessible components are available to all electors to cast their ballots including:
 - a. Ensuring accessible components are located in an accessible voting booth with sufficient privacy.
 - b. Ensuring the accessible components are turned on and working. Wis. Stat. § 5.25(4).
 - c. Municipal clerks must include ballots marked using accessible voting equipment in their public test of voting equipment. Wis. Stat. § 5.84(1).
2. Municipal clerks should ensure that election inspectors are familiar with accessible equipment and able to perform basic tasks including:
 - a. Explain to an elector how to use the equipment to cast their ballot.
 - b. Turn on and restart the accessible equipment (if applicable).

- c. Change the paper roll, if necessary.
- d. Change ink cartridge, if necessary.

Training Election Inspectors - Accessibility

Election inspectors should be instructed on how to ensure the greatest level of accessibility on Election Day.

1. Municipal clerks should review polling place set-up requirements with election inspectors.
2. Municipal clerks should review the *Common Sense and Common Courtesy* document with inspectors prior to Election Day. A copy of this document is available on the page following this section.
3. Inspectors must be aware of accommodations available to voters. Inspectors must be knowledgeable that if an elector is unable to state their name and address, they are able to have an assistant state it for them. Wis. Stat. § 6.79(8). Inspectors must also be trained that if a voter is unable to sign their name in the poll book due to disability, the inspector should write “exempt” in the signature line. Wis. Stat. § 6.36(2)(a).
4. Municipal clerks should ensure that election inspectors are knowledgeable about how to use all voting equipment including accessible equipment. The WEC suggests that election inspectors participate in the public test to gain familiarity with the voting equipment and security procedures. Poll workers should be encouraged to use the accessible equipment to cast their own ballot. Accessible voting equipment instructional videos are available on the WEC website.
5. There is a plan in place for inspectors to communicate that there is accessible voting equipment, such as asking voters if they would like a paper ballot or to use the machine.
6. Inspectors should be encouraged to view the Wisconsin Elections Commission Accessibility Training video: *Know Your Rights* about accessible voting rights. The video is available on the agency website.

7. Municipal clerks are encouraged to reach out to the local disability community to recruit election inspectors. If you need help in locating people with disabilities who may be interested in serving as an election inspector, contact the Wisconsin Elections Commission. Please note that any poll worker is entitled to reasonable accommodations.
8. Municipal clerks are encouraged to reach out to local disability rights organizations, such as the Disability Vote Coalition, to assist in the training of election inspectors.
9. Disability Rights Wisconsin, an advocacy group for individuals with disabilities, has prepared an *Election Day Accessibility Checklist* for election inspectors. This checklist is at the end of this section for your reference.

Accessibility Contacts & Additional Resources

If you do not know exactly how to solve an issue and would like advice on affordable solutions, you may contact the Wisconsin Disability Vote Coalition, the Coalition of Independent Living Centers or the Wisconsin Elections Commission for advice. More information on accessibility can be obtained from The Access Board's Americans with Disabilities Act Accessibility Guideline (ADAAG) manual, which is available at: <https://www.access-board.gov/>.

Wisconsin Elections Commission

P.O. Box 7984
 Madison, WI 53707-7984
 (608) 266-8005
 elections@wi.gov
<http://elections.wi.gov>

Disability Rights Wisconsin (DRW)

(800)928-8778
 Disabilityrightswi.org
www.facebook.com/disabilityrightswi

Wisconsin Disability Vote Coalition

Disability Rights Wisconsin
 (844)347-8683
 disabilityvote.org
www.facebook.com/wisconsin Disability Vote

ADA Checklist for Polling Places

<https://www.ada.gov/resources/polling-places-checklist/>

COMMON SENSE AND COMMON COURTESY

Many election inspectors have had little interaction with people with disabilities; here are a few courtesies and guidelines:

- Remember that all voters deserve courteous attention in exercising their right as citizens to vote.
- Remember not all disabilities are visible. Each individual knows their own abilities best. If an individual requests assistance, trust that it is necessary.
- Be considerate of the extra time it might take for a person with a disability or an elderly person to get things done.
- Animals that assist people with disabilities must be admitted into all buildings. Such animals are highly trained and need no special care other than that provided by the owner.
- Greet a person who is visually impaired by letting the person know who and where you are.
- When offering walking assistance, allow the person to take your arm and tell them if you are approaching steps or inclines or are turning right or left.
- If someone uses a mobility aid like a wheelchair, ask if they would like assistance. If they would like assistance, ask how you can assist them. **Do not** push their chair without their consent.
- Speak directly to the person who has a disability rather than just to a companion who may be accompanying them.
- Speak calmly, slowly, and directly to a person who is hard of hearing. Your facial expressions, gestures, and body movements help in understanding. Don't shout or speak in the person's ear. If full understanding is doubtful, try writing a note to the person.
- Pre-printed signs or a notepad should be available to assist communication with deaf or hard of hearing electors.
- Give unhurried attention to a person who has difficulty speaking.
- Provide a guiding device such as a ruler or a signature guide for signing forms.
- You can assist a voter with filling out a registration form. If a voter is unable to sign their own registration form, you can sign their name and then your own as the assistant.
- State and federal law permits voters with disabilities to be accompanied and to receive assistance by another person in the voting booth.

EMERGENCY PREPAREDNESS AND CONTIGENCY PLANNING

Summary

There are many scenarios, both natural and man-made, that warrant taking precautions and making preparations to prevent, mitigate, and recover from an emergency situation that may disrupt an election.

The Wisconsin Elections Commission has worked to examine all aspects of security in relation to Wisconsin's election administration technology and laws and drafted a comprehensive plan to document the coordination between the WEC and other election security partners. Wisconsin's election systems are secure thanks to the Wisconsin Elections Commission's strong partnerships with federal and state agencies, as well as with local election officials and the voters of Wisconsin. The plan exists to detail the WEC's election security preparation and progress over the past two years, and steps WEC staff will pursue in the future to continue to keep Wisconsin's elections secure.

Due to the changing security landscape, WEC staff updates the Election Security Plan regularly to ensure it contains the most up-to-date information:

<https://elections.wi.gov/resources/reports/election-security-planning-reports>.

Procedures

Municipal clerks should ensure that each municipality has an Election Day Emergency Response Plan. To assist clerks, the WEC has created an Election Day Emergency Response plan template. This template is available in the WEC Learning Center. Additionally, the WEC has created the Contingency Planning and Election System Security manual, which details election security best practices and provides potential security resources. This manual can be found on the agency website. Contingency plans should be reviewed with election inspectors as part of the clerk's pre-election training so election inspectors know what actions to take if an emergency occurs. Efforts should be made to have back-up election inspectors that are knowledgeable of Election Day procedures and on call in the event of an illness or other unforeseen incident.

We encourage you to share these plans with your county clerk as well as with your local emergency response crews such as the police, fire, and emergency

government departments. In the event of an emergency, these partners can serve as a resource to help you quickly resume election activities.

The plans should be updated annually or more frequently as needed. The WEC has created an Election Day Emergency Response plan template and is available in the WEC Learning Center. These plans should, at a minimum, provide for the following:

1. Normal Operating Procedures

The plans should include a briefing on the normal election-related processes.

2. Troubleshooting for Common Emergency Scenarios

- a. The plan should provide appropriate responses to the most common emergency scenarios, such as a fire or fire alarm, inclement weather, electrical outage, and materials/equipment not available.
- b. Plans should include evacuation and emergency shelter locations that are specific to each polling place and updated before each election.
- c. Contact numbers should be provided to election inspectors for local emergency response such as the police, fire, and emergency government departments, in addition to the polling locations' building maintenance personnel (if applicable) and the municipal clerk.

Note: The third page of the *Election Day* manual, "Election Day Contacts," and the Election Day Emergency Response plan provides space to list these numbers and should be completed or updated before Election Day.

3. Handling of Election Materials

- a. Plans should detail the proper procedure for securing unmarked ballots, voting equipment and ballot boxes, and poll lists in an emergency situation.
- b. Responsibility for securing materials should be assigned to specific election inspectors before Election Day.

4. Alternate Polling Locations.

- a. Arrangements for alternate polling locations should be established before Election Day in the event of a permanent evacuation.
- b. Reasonable effort should be made to ensure accessibility and proximity to the original polling location.
- c. Whenever it becomes impossible or inconvenient to hold an election at the designated location (inclement weather, bomb threat, etc), the inspectors may adjourn to the nearest convenient place. The inspectors must make a proclamation of the move, and a law enforcement officer or other designated person must be stationed at the former site to notify electors of the move. The procedure for adjournment to an alternate site is outlined in Wis. Stat. § 7.37(1).

Frequently Asked Questions

1. *What happens if an emergency occurs at the polling place on Election Day and the inspectors need to move locations?*

Wisconsin Statutes detail the procedure for adjourning to an alternate polling location in the event of an emergency. The municipal clerk should always consult with the Wisconsin Elections Commission before moving a polling location.

2. *What happens in a weather emergency? Can we close early?*

No. The polling place must remain open during regular hours (7:00 a.m. – 8:00 p.m.) and cannot be adjusted except by court order.

3. *Who should I show my contingency plans?*

Contingency plans should not be publicly displayed but should be shown to inspectors and staff who are helping on Election Day.

4. *How often should I update my contingency plans?*

Contingency plans should be updated at least annually and reviewed before each election to ensure all information is correct.

POLLING PLACES & SUPPLIES

Summary

Municipal clerks have a number of duties related to polling places up to and through Election Day. Specifically, municipal clerks have the responsibility to equip polling places and to prepare and deliver ballots and other supplies.

Polling Place Establishment

Polling places are established by the governing body of a municipality at least 30 days before any election. These locations must be accessible to all individuals with disabilities and the municipal clerk must certify to the Wisconsin Elections Commission (WEC) that all polling places used within the municipality satisfy the accessibility requirements established by the WEC. Wis. Stat. § 5.25.

All electors within a ward must vote at the same polling place. However, a single polling place can serve the electors of more than one ward. When two or more wards are combined for voting purposes at a single polling place the governing body must do so by resolution at least 30 days before any election.

In municipalities where the population is less than 35,000, the governing body may provide in the resolution to combine the election results for each set of combined wards. The governing body of a municipality of 35,000 or more may by resolution combine election returns of a ward with an adjacent ward if the ward has a population of 20 or less and the total population of the combined wards would not exceed that municipality's population range for wards. Election results can be combined only if electors in the combined wards vote for the same offices.

Equipping and Supplying the Polling Place

A checklist outlining what materials and set-up the municipal clerk must provide for each polling place follows this section. Each polling place must be provided with the following:

Voting Booths

- Every polling location is required to have at least one voting booth for every 200 electors who voted in the last general election.
- One booth must be at least 30 inches wide with a writing surface between 28 and 34 inches high in order to meet accessibility standards, in addition to the accessible voting equipment. Knee clearance from the floor to the underside of the booth should be at least 27 inches. Toe/knee clearance from the front to the back of the booth should be at least 17 inches.
- Booths must have a surface on which to write and be sufficiently enclosed to ensure privacy for the elector. It is important to remember that the accessible booth must also be sufficiently enclosed to ensure privacy for the elector. This can be achieved by using a privacy shield or by positioning the table so that the face of the equipment is directed away from the view of the room.
- All booths must be placed together in the same vicinity, including the booth(s) containing the accessible voting equipment.
- Booths are required to be placed apart from other activities such as signing in and registering.
- Pencils or appropriate marking pens must be provided.
- Election inspectors must be trained to set up electronic voting equipment, including accessible voting components.

Wis. Stat. § 5.35(2).

Electronic Voting Systems

- All municipalities with a population of 7,500 or more are required to use electronic voting systems.
- Every polling location must have at least one piece of voting equipment that meets accessibility standards set forth by the WEC to allow individuals with disabilities to vote privately and independently. Wis. Stat. § 5.25(4)(a).

For more information on voting equipment, please see the section in this manual on Voting Equipment.

Wis. Stat. § 5.40(1).

Paper Ballots

No matter the type of voting system used, there must be a supply of paper ballots available at the polling place. This paper ballot supply is for cases in which the electronic voting equipment breaks down/malfunctions, an elector votes provisionally, curbside, is assisted or challenged after the normal closing time due to court order.

Ballot Boxes

- One ballot box is required for each type of ballot used in the election for municipalities using hand-count paper ballots.
- Where direct recording electronic equipment primarily is used at the polling place, a single ballot box for hand-counted paper ballots (such as absentee, assisted, and challenged ballots) is required.
- If electors from more than one reporting unit use the same polling place, there should be separate ballot boxes provided for each reporting unit.
- The boxes should be clearly labeled to indicate which ballots are to be deposited.
- There should be a suitable lock and key for each ballot box, *including the discard box for partisan primary paper ballots not marked by the elector.*

Wis. Stat. § 5.35(3).

National Flag

The American flag must be displayed on an outside pole or in the voting area during all hours the polling place is open. Wis. Stat. § 5.35(1).

Election Laws and Manuals

- A copy of Chapters 5 through 12 of the Wisconsin State Statutes should be present at all polling locations.
- A copy of the current *Election Day* manual.

Copies of these statutes and the manual can be downloaded from the agency website or ordered for a processing charge.

Tables and Chairs

Clerks should ensure that there are enough tables and chairs for election inspectors to conduct their work. Some electors may not be physically able to stand for extended periods of time. Chairs should also be available for these electors if they must stand in line. Wis. Stat. § 5.25(4)(a).

Signs

- Traffic in the polling place can be improved by posting “Enter,” “Exit,” and “Voter Registration” signs.
- Signs indicating the location of an accessible entrance and marking the accessible path must be prominently posted and easy to read from the parking lot. Wis. Stat. § 5.25(4)(a).
- Directions that instruct voters that they must give their name and address to the inspectors, provide proof of identification and sign the poll list can make the check-in process more efficient.

Observer Area

Observers are individuals who wish to exercise their right to be present at the polling place on Election Day. Anyone, other than a candidate, has a right to be at a polling place to observe the conduct of the election. Wisconsin law does not prohibit non-U.S. citizens or foreign nationals from observing the election process. Each observer is required to sign an observer log and wear tag, or badge labeled “observer.”

- a. A designated observation area at the polling place should permit observers to readily observe all public aspects of the voting process. When physically feasible, the observation area shall be not less than 3 feet, nor more than 8 feet from the table at which electors are announcing their name and address and being issued a voter number and the Election Day Registration table. Observers should be placed so that they can hear the announcement of names/addresses interactions of voters with election officials, but not so that they interfere with the voting process.
- b. If necessary, additional observer areas may be established in other areas of the polling place to allow for observation of other public aspects of the voting process (challenges, ballot box security, etc.)
- c. Please provide chairs for the observers. A table may also be setup, if space permits.
- d. Please provide copies of the agency's *Wisconsin Election Observers Rules-at-a-Glance* brochure. This brochure should be provided to all observers upon check-in.

Wis. Stat. § 7.41(2).

More information about how to handle election observers on Election Day can be found in “Election Day Issues” section of this manual and the *Election Day* manual.

Voter Information and Notices

All of the following notices, statements, and postings should be supplied to the polling place so that they can be posted and easily read by electors entering the polling place or waiting in line to vote. All Election Day notices, statements, and postings must be printed in size 18 font or larger to ensure readability. Copies of sample voter information notices can be found on the agency website.

1. Notices: The Type B and D notices must be posted. The Type C notice must also be posted, if applicable.
2. Sample Ballots: Two copies of each type of ballot.

3. Statement of Election Fraud (EL-111): This statement sets out the laws and applicable penalties for election fraud.
4. Notice of Crossover Voting at a Partisan Primary (EL-112): This is a statement explaining the effect of crossover voting at a partisan primary and is posted at a partisan primary only.
5. Notice of Overvote (EL-113): This is a statement explaining the effect of overvoting the ballot and how to obtain a replacement ballot.
6. Notice of Crossover Voting at a Presidential Preference Vote (EL-114): This is a statement explaining the effect of crossover voting at a Presidential Preference Vote and is posted at that election only.
7. Voter Qualification Poster (EL-115): This notice explains the requirements for an individual to be a qualified elector.
8. Voting Rights (EL-117): This notice provides general information on voting rights protected by federal law.
9. Contact Information (EL-118): This posting provides electors with contact information if they have concerns with the voting process. The blank sections should be filled in before Election Day by the municipal clerk.
10. Ward Maps: A ward map clearly indicating all the wards in the municipality served by that polling place must be prominently displayed.
11. Street Directory: A street directory that indicates which streets are in each ward along with the location of the polling place in each ward is recommended.

Wis. Stats. §§ 5.35(6), 10.01, 10.02, and 10.06.

Election Day Forms and Supplies

Election Day forms and supplies are provided by the county, municipal, or school district clerk depending on the offices on the ballot.

1. Ballots and Sample Ballots: Two sample ballots for each ballot style should be posted at the polling place. For more information on preparing ballots, see the Ballots section this manual.
2. Ballot Bags (EL-101):

A ballot bag/container should be provided for each ballot style.

- For example, for municipalities that hand-count paper ballots, there should be (per reporting unit) one ballot bag for county, state, and federal ballots; one ballot bag for municipal ballots; one ballot bag for school district ballots; and one ballot bag for each referenda and special district ballot.
- Where optical scan or direct recording electronic ballots are used, only one ballot bag is necessary because all offices and referenda are on a single ballot card.
- A separate ballot bag should be used for provisional ballots.

Wis. Stat. § 7.51(3)(a)-(b).

3. Envelope for Rejected Absentee Ballot Certificate Envelopes (EL-102): Election officials place all rejected Absentee Ballot Certificate Envelopes (EL-122) in this brown carrier envelope. It is returned to the clerk who provided it for that election. Wis. Stat. § 6.88(3)(b).
4. Envelope for Used Absentee Ballot Certificate Envelopes (EL-103): Election inspectors place all used Absentee Ballot Certificate Envelopes (EL-122) in this white carrier envelope after determining they have been properly executed and after removing the absentee ballots. The envelope is returned to the clerk who provided it for that election. Wis. Stat. § 7.51(3)(d).
5. Inspectors' Statement (EL-104): All challenged, provisional, damaged, defective, and rejected ballots must be documented using this form. This statement should provide an accurate account of the inspectors' decisions concerning all ballot irregularities and describe any other occurrences or irregularities at the polling place (that may or may not affect the validity of the election). Wis. Stat. § 7.51(4)(a).

6. General Purpose Tally (EL-105): Inspectors or tabulators use this form in counting hand-count paper ballots and recording the number of votes cast for each candidate. This includes write-in votes, or in the case of a referendum, the yes and no votes. Where optical scan ballots are used, a tally sheet is used to count and record registered write-in votes. Note that write-in votes are recorded individually for specific situations. Wis. Stat. § 7.51(4).

- All write-in votes are counted for each office when there are no certified candidates on the ballot.
- If the number of certified candidates on the ballot for an office is at least as many as there are seats to be filled, only votes for write-in candidates who registered their campaign should be counted. Write-in candidates register their campaign by filing a campaign registration statement (CF-1) with the filing officer. The deadline for a write-in candidate to file the campaign finance registration statement with the municipal clerk is noon on the Friday before the election in which they are running.
- If a certified candidate for an office dies before the election, votes for all write-in candidates for that office are counted. Wis. Stat. § 6.33(3).
- NOTE: If a ballot candidate has passed away at the time of the election but the name remains on the ballot, votes for the deceased candidate are counted. If the deceased candidate wins the election, a vacancy is declared which is filled under the provisions of Wis. Stat. Ch. 17.

Poll List: The poll list may be on paper or electronic and is a list containing the names and addresses of registered voters in a ward or combination of wards. If a municipality uses paper poll lists, each ward or combination of wards will have two poll lists, which must be maintained identically on Election Day. If the municipality uses e-pollbooks, this is not required as each machine updates the list on all machines. Election inspectors use poll lists to ensure only registered voters cast a ballot, and to capture certain information about each registered voter who receives a ballot. Wis. Stats. §§ 6.36(2)(a), 6.79.

- a. Providers generate poll lists from WisVote during the 14 days before an election.

- b. Providers give the lists to relier clerks, who in turn distribute them to polling locations.
- c. Self-provider clerks generate poll lists for their own municipalities and distribute them to their polling locations.
- d. Poll lists consist of 4 parts:
 1. Part 1: Regular Poll List (WisVote-generated): Contains the names of all voters who register by 5:00 p.m. on the 20th day before the election.
 2. Part 2: Pre-printed Supplemental Poll List (WisVote-generated): The municipal clerk may provide a printed list that contains the names and addresses of all voters who registered during late registration. Late registration is from the 19th day before the election up to 5:00 p.m. or the close of the clerk's office, whichever is later, the Friday before the election. Electors who register during this time will receive a Certificate of Registration (EL-133) to be presented at the polling place on Election Day.

Note: If a late registrant fails to present his or her Certificate of Registration (EL-133), but his or her name is on the supplemental poll list, the registrant is allowed to vote. If the individual fails to present his or her Certificate of Registration (EL-133) and his or her name does not appear on the supplemental poll list, the election inspector should attempt to contact the municipal clerk and determine if he or she has record of the elector's registration. If there is no record of the elector's registration in the clerk's office, then he or she must complete another Voter Registration Application (EL-131) and provide proof of residence before being allowed to vote.
 3. Part 3: Handwritten Supplemental Poll List (EL-107): Election Inspectors must enter the name, address and Election Day voter number of all Election Day registrants onto the Handwritten Supplemental portion of the poll list. This must also be present at polling place that use e-

pollbooks. Relier clerks may use the EL-107 to enter the name and address of any voter who registers after the Provider has printed the WisVote-generated poll list. Voters who appear on the supplemental poll list are not required to present their Certificate of Registration (EL-133) before receiving a ballot.

4. Part 4: Confidential Elector List: If there are any confidential electors in the reporting unit, their names and confidential voter identification numbers will appear at the back of the poll list in a separate section. See the Confidential Electors section in the Electors chapter of this manual for more details.
7. Inspectors' Certificate for Provisional Ballots (EL-108): Inspectors use this form to record the issuance of provisional ballots. All provisional ballots should then be recorded on the Provisional Ballot Recording Form (EL-123r). The EL-123r is submitted by the municipal clerk to the county clerk and to the Wisconsin Elections Commission. Wis. Stat. § 6.97(3)(a).
8. Election Observer Form (EL-109): Individuals who wish to observe the conduct of the election and/or election administration event should legibly list his/her full name, street address and municipality, and the name of the organization or candidate the observer represents, if any. The observer shall also sign this form acknowledging the observer understands the rules and will abide by them. Additionally, an observer must present photo identification to an election inspector. *Any type* of photo identification is acceptable so long as it features a photo of the observer and the observer's name. An election official shall verify by marking on the EL-109 that the observer's name listed on the EL-109 matches the photo identification. If the information on the photo identification does not match the information on the observer log, the individual shall not be permitted to serve as an observer.
9. Order To Leave Polling Place (EL-110): In the event that a chief inspector orders an observer to leave a location, the chief inspector shall provide this written order to the observer which includes the reason for the order and the signatures of the chief inspector as well as another election inspector representing the opposite political party, if available. The chief inspector shall have sole authority to order the removal of an observer, but the other

election inspector may note his or her concurrence or disagreement with the decision on the Inspectors' Statement (EL-104). Wis. Stat § 7.41(3).

10. Election Observers Rules-At-A-Glance: This brochure is available from the agency website. It is a summary of the rules for election observers and a copy should be provided to all individuals who wish to observe the conduct of the election and/or election administration event. Wis. Stat. § 7.41(5).
11. Provisional Ballot Certificate Envelopes (EL-123): Each provisional ballot is placed in a separate provisional ballot certificate envelope. Every provisional voter must complete the certification and seal his or her ballot inside the envelope. Wis. Stat. § 6.97 (3)(b).
12. Provisional Ballot Reporting Form (EL-123r): All provisional electors' information is recorded on this form including the elector's name and address, PV# issued, the reason for issuing the provisional ballot, and whether the elector voted in-person or via absentee. Wis. Stat. § 6.97(3)(a).
13. Absentee Ballot Log (EL-124): The voter number that is issued to an absentee elector must be recorded on the poll list and on the absentee ballot log. If an absentee ballot is rejected, the reason for the rejection and the rejected ballot number is recorded on the absentee ballot log. Wis. Stat. § 6.88(1), (3)(b).
14. Presidential Elections: November Presidential elections require two additional forms. These forms are used for individuals who moved to Wisconsin less than 28 days before a presidential election. These individuals are eligible to vote in the presidential contest only. Wis. Stat. § 6.18.
 - a. Authorization to Cancel Registration-Presidential Election/New WI Resident (EL-139)
 - b. Application for Presidential Ballot (EL-141)

Frequently Asked Questions

1. *Are polling places required to be in public buildings?*

Polling places should be in public buildings unless the governing body determines that the use of a nonpublic building better serves the needs of the voters.

2. *Do we need to have a voting booth for our accessible voting equipment or may we put it on a table that is at least 30 inches wide and between 28 and 34 inches tall?*

Voting booths are required for both paper ballots and electronic voting equipment. A table that meets accessibility width and height may be used if the table is sufficiently shielded or enclosed to ensure voter privacy. This can be achieved by using a privacy shield or by positioning the table so that the face of the equipment is directed away from the view of the room.

3. *Do election observers need to obtain a permit or pre-register with the clerk Before Election Day?*

No, there is no requirement that observers need to obtain a permit. However, if the two dominant political parties wish to have an observer accompany special voting deputies conducting absentee voting in a care facility or retirement home, the name of the observer must be submitted to the municipal clerk or board of election commissioners no later than the close of the business on the last business day prior to the residential care facility visit.

4. *Can a candidate ever be an observer?*

Yes. After the polls close, anyone, including the candidate, may be present to observe the public aspects of the post-election process. During polling hours, however, the candidate may not be an observer. The doors to the polls must remain open and unlocked during the counting of votes.

5. *Can family members of candidates be election observers?*

Yes, there is nothing that prohibits family members of candidates from being present at the polling place as observers. As with all observers, they cannot disrupt the operation of the polling place or attempt to influence voters. If it appears that the primary purpose of a group or individual is to disrupt or influence voting, the chief inspector should order the removal of the individuals and may contact a law enforcement officer, if necessary, for assistance.

6. *Can the names of known write-in candidates be posted?*

No, names of known write-in candidates are not to be posted at the polling place. Inspectors are not to mention write-in candidates to voters as a matter of course. Only if specifically asked by a voter about write-in candidates, may an inspector give the names of known write-in candidates. However, answers must be given carefully so as not to appear to be endorsing or announcing a write-in candidate. We recommend the clerk provide the election inspectors with a list of registered write-in candidates to give to any voters that request this information. Further, election inspectors may not advise voters if any ballot candidates no longer wish to run for office, even if asked by a voter.

7. *What happens if a voter presents a Certificate of Registration (EL-133) on Election Day but does not appear on the Supplemental Poll List (EL-107)?*

Election inspectors must enter the individual's name, address and Election Day voter number onto the Handwritten Supplemental portion of the poll list. The voter will not need to re-register.

8. *What happens if a voter insists that they registered in the clerk's office, but their name does not appear on the poll list or supplemental list and the voter cannot produce an EL-133?*

The voter is required to complete another registration form and provide acceptable proof of residence.

ELECTION DAY ISSUES

Summary

Before Election Day, the municipal clerk has made a number of preparations to ensure a smooth Election Day. This includes preparing for delivery of ballots and supplies, posting of required notices, voting equipment testing and set-up, training of election inspectors, and developing and documenting a contingency plan for unforeseen incidents. On Election Day, the municipal clerk serves as a resource for the election inspectors for questions and troubleshooting.

Role of the Clerk on Election Day

On Election Day, the polling place is run by the chief election inspector. However, the municipal clerk should periodically inspect the polling place to monitor turn out, check supply levels, respond to news media inquiries, and handle any problems. While not in the voting area, they should be available to election inspectors for advice, supply requests, etc. If the municipal clerk is not available on Election Day, a deputy should be appointed to act in their absence.

Note: When running for re-election, municipal clerks should not be stationed at the polling place, as their presence casts doubt on the integrity of the election. It is the formal opinion of the Wisconsin Elections Commission that an incumbent municipal clerk should carry out their duties without being stationed at the polling place, or without spending extended periods of time at the polling place. EL Opinion 81-3.

Central Count Absentee Ballot Site

The governing body of any municipality may provide by ordinance that, instead of processing absentee ballots at the polling place, absentee ballots be processed and canvassed at an alternate site. Wis. Stat. § 7.52. The municipality is required to submit notification, in writing, to the Wisconsin Elections Commission on how the municipality intends to process absentee ballots at a central location and the municipality is required to consult with the Wisconsin Elections Commission staff. The municipal board of absentee ballot canvassers shall publicly canvass all absentee ballots at all elections held in the municipality after passage of such an ordinance. Wis. Stat. § 7.52.

Municipal Board of Absentee Ballot Canvassers

1. The municipal board of absentee ballot canvassers is composed of the municipal clerk, and two other qualified electors of the municipality appointed by the clerk.
2. The members of the municipal board of absentee ballot canvassers serve 2-year terms commencing on January 1 of each odd-numbered year.
3. If the municipal clerk is a candidate at an election being canvassed, the clerk may perform their duties on the board of absentee ballot canvassers only if the clerk does not have an opponent whose name appears on the ballot. If the clerk does have an opponent whose name appears on the ballot, the presiding officer of the municipality shall designate another qualified elector of the municipality to serve in lieu of the clerk for that election.
4. If the municipal clerk is a nonresident of the municipality, they may not serve as a member of the board of absentee ballot canvassers. The clerk must appoint another qualified elector of the municipality to serve their place.

Wis. Stats. §§ 7.52, 7.53(2m).

Public Notice

1. Any member of the public has the right to observe the meeting of the municipal board of absentee ballot canvassers.
2. Public notice of the time and location of the meeting of the municipal board of absentee ballot canvassers shall be given by the clerk at least 48 hours prior.

Wis. Stats. §§ 7.41, 7.52(1)(a).

Procedure

At every election following enactment of a central count absentee ballot ordinance, the municipal board of absentee ballot canvassers shall, any time after the opening of the polls and before 10 p.m. on Election Night, publicly convene to count the absentee ballots for the municipality. Wis. Stat. § 7.52(1)(a).

The municipal board of absentee ballot canvassers shall follow the same procedures, and use the same forms as are used at the polling place when processing, counting and securing absentee ballots. These procedures may be found in the “Ballots” section of the Election Day Manual. Wis. Stat. § 7.52(3). It is the responsibility of the municipality to designate the location, appoint the municipal board of absentee ballot canvassers and coordinate the absentee ballot process.

Questions regarding the central count absentee ballot process may be directed to Wisconsin Elections Commission staff.

Observers

Anyone, other than a candidate up for election, has the right to be present to observe the conduct of the election and/or an election administration event. Observers may be present at a facility served by special voting deputies, a municipal clerk’s office during in-person absentee voting, at a polling place on Election Day, at a central counting location and at a recount. Wis. Stat. § 7.41(1).

The Wisconsin Elections Commission has established rules for observers at a polling place or other locations where votes are being cast, counted, canvassed, or recounted. The rules represent the Commission staff’s application of Wis. Stat. § 7.41. A summary of the rules shall be provided to each observer. The “Wisconsin Election Observers Rules-at-a-Glance” brochure on the agency website may be used to meet this requirement.

All observers shall be accorded the same respect regardless of their political affiliation or non-affiliation.

A designated observation area at the polling place or other location where votes are being cast, counted, canvassed, or recounted should permit observers to hear instructions and to readily observe all public aspects of the process without disrupting the activities.

If observers are unable to hear the election inspectors and voters, they may ask for the instructions or information to be repeated. However, there is no requirement the instructions or information be broadcast at a specific volume. If space permits, observers may move within the designated observer area to better view and/or hear the interactions.

To ensure the orderly conduct of the election and/or election administration event, and if necessary due to physical limitations of the host location, an election official may reasonably limit the number of observers representing the same organization or candidate.

Wis. Stat. § 7.41(1).

Management of Observers

Observers should check-in and follow directions from the election official in charge of the polling place or other location where votes are being cast or counted.

Location	Check In?	Who to Check In With
Facility served by special voting deputies	Yes	Special voting deputies
In-person absentee voting	Yes	Municipal clerk or their designee
Polling place during polling hours	Yes	Chief inspector or their designee
Central count while processing ballots	Yes	Municipal clerk or their designee.
Recount Canvass	No	N/A

Election Observer Log (EL-109)

An observer shall legibly list their full name, street address and municipality, and the name of the organization or candidate the observer represents, if any, on the Election Observer Log (EL-109). The observer shall also sign this form acknowledging the observer understands the rules and will abide by them. Wis. Stat. § 7.41(1). Additionally, an observer must present photo identification to an election inspector. Any type of photo identification is acceptable so long as it features a photo of the observer and the observer’s name. An election official shall verify by marking on the EL-109 that the observer’s name listed on the EL-109 matches the photo identification. If the information on the photo identification does not match the information on the observer log, the individual shall not be permitted to serve as an observer.

An observer must wear a tag or badge which reads “Election Observer,” and which shall be worn at all times the observer is inside of the polling place or other location where votes are being cast, counted, canvassed, or recounted. The name of the observer need not appear on the Election Observer tag or badge.

Observer Area – In-Person Absentee Voting

Observers are allowed at the municipal clerk’s office on any day of in-person absentee voting provided the office is located in a public building. No observer is allowed behind the counter in the municipal clerk’s office.

Check-In Area: There must be an observer area between three and eight feet of the table/counter at which electors state their name and address to receive a voter number.

Voter Registration Area: There must be an observer area between three and eight feet of the voter registration table/counter.

If space constraints prevent the municipal clerk’s office from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk shall document the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. In that case the municipal clerk shall provide a written explanation to the WEC as to the reasons why the distance requirement could not be satisfied, within seven days after the election.

Observers should direct questions and concerns to the municipal clerk.

The EL-109 may not be viewed by members of the public, including other election observers, during this period. It may be obtained through a public records request after the election.

Observer Area – Central Counting Location

Observers are allowed at a central counting location under Wis. Stat. § 5.86.

Counting Area: There must be an observer area between three and eight feet of the table at which the counting is taking place.

If space constraints prevent the central counting location from accommodating an observation area within three to eight feet of the areas listed here, the municipal

clerk shall document the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. In that case the municipal clerk shall provide a written explanation to the WEC as to the reasons why the distance requirement could not be satisfied, within seven days after the election.

The EL-109 may not be viewed by members of the public, including other election observers. It may be obtained through a public records request after the election.

Observer Area – Polling Place

An observation area should always be established when setting up the polling place on Election Day.

Check-In Area: There must be an observer area between three and eight feet of the table at which electors state their name and address to receive a voter number.

Voter Registration Area: There must be an observer area between three and eight feet of the voter registration table. Wis. Stat. § 7.41(2).

If space constraints prevent the polling place from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk and chief inspector shall record on the Inspectors' Statement (EL-104) the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. In that case the municipal clerk shall provide a written explanation to the WEC as to the reasons why the distance requirement could not be satisfied, within seven days after the election.

Observers should direct questions and concerns to the chief inspector or their designee.

Election inspectors should attach the EL-109 to the Inspectors' Statement (EL-104). The EL-109 may not be viewed by members of the public, including other election observers, on Election Day. After Election Day, a copy of the EL-109 may be obtained through a public records request.

Observer Area – Recount

The recount of any election is open to any interested member of the public, including candidates and their counsel. The recount board of canvassers may limit observers to a designated area, but the observers shall be positioned so that they can see the poll lists and each individual ballot as it is counted. If there is not enough room for all observers to view the ballots as they are being counted, visual preference shall be given to the candidates or their representatives

The board of canvassers is in charge, and observers shall follow the board's directives. Questions should be directed to the member of the recount board of canvassers designated to receive questions. Video and still cameras are allowed if their use is not disruptive. Because a recount is considered a public meeting, observers are not required to provide photo ID, sign the EL-109 or wear an observer badge.

A recount plan adopted by the Wisconsin Elections Commission or a local board of canvassers may include additional rules governing observer conduct, provided that the recount plan is consistent with the public's right to observe the recount process and the ability of election officials to conduct the recount.

Conduct of Observers

While observers are present, they are prohibited from electioneering or interfering with the orderly conduct of the election and/or election administration event. Any observer who engages in loud, boisterous, or otherwise disruptive behavior that the election official believes threatens the orderly conduct of the activity or interferes with voting shall receive a warning from the election official. If a warning has been issued, and the offending observer continues the disorderly behavior, the election official shall order the offending observer to depart the location. If the offending observer declines or otherwise fails to comply with the election official's order to depart, the election official shall summon local law enforcement to remove the offending observer.

In the event that an election official orders an observer to leave a location, the election official shall provide a written order to the observer (EL-110) which includes the reason for the order and the signatures of the local election official as well as another local election official representing the opposite political party, if available. The local election official shall have sole authority to order the removal of an observer, but the other local election inspector may note their concurrence or

disagreement with the decision on the Inspectors' Statement (EL-104). Wis. Stat. § 7.41(3).

When an EL-110 is completed, the municipal clerk or board of election commissioners shall notify the WEC of the incident within seven days. This notification should include a copy of the EL-110, if available, and the portion of the Inspectors' Statement which documents the incident. WEC staff will use this information to provide a summary to the Commission after each election of all reported incidents.

Viewing Documents

Observers may examine the poll list so long as they do not interfere with election official **responsibilities.**¹

1. The election official determines whether it is an appropriate time to allow an observer to examine or photograph the poll list. If voters are standing in line to have their names recorded and to receive a ballot, it is not an appropriate time to allow observers to view the poll lists.
2. The poll list must remain under the control of election officials at all times.
3. The poll list may not be handed to the observers.
4. Observers are prohibited from viewing the confidential portion of the poll list.
5. Observers are not permitted to make a photocopy of or take photographs or video of proof of residence documents and voted ballots.
6. All observers, regardless of affiliation, should be accorded the same treatment with respect to examining the poll lists.

Observers are not permitted to handle an original version of any official election document, including voter registration forms and/or proof of residence documents while voters are registering.

¹ If a municipality uses Badger Books, observers may view the Participation List & Count report, accessible from the admin section of the program.

Additional Prohibited Activities

Observers may not conduct any of the following disorderly activities while monitoring the conduct of the election and/or election administration event.

1. Wear clothing or buttons related to candidates, parties, or referenda that are intended to influence voting at the election.
2. Interact with voters, except when asked by an elector to provide assistance in marking their ballot.
3. Watch voters mark their ballots.
4. Have conversations about candidates, parties or ballot questions.

Observers at a Care Facility Served by Special Voting Deputies

Please see *Absentee Voting in Residential Care Facilities and Retirement Homes* for information on observers in care facilities.

Voter Cell Phones and Photography in Polling Area

Voters may silently use cell phones in the polling area and voters may take photos or video of themselves if it is not disruptive. Voters may not take photos or videos of other voters or other voters' ballots without their consent. The chief inspector may prohibit an observer from using a cell phone if it is deemed disruptive.

Inspectors may wish to caution voters that sharing an image of their voted ballot in exchange for compensation may violate the election bribery or election fraud statutes.

Media

Members of the media may be present at the public location hosting an election and/or election administration event but cannot interfere with the activities. Members of the media should check-in with the election official in charge of the location. This election official should document the name and affiliation of each member of the media on the Inspectors' Statement (EL-104).

Conduct of Media

1. Communications media observers shall be permitted to use photography and video cameras provided the cameras are not used in a manner that allows the observer to see or record how an elector has voted and provided the cameras do not disrupt or interfere with voting or disrupt the orderly conduct of the election.
2. Contact with electors in the voting area should be limited. This includes interacting with voters who are waiting in line to check-in and/or cast their ballots.
3. Interviews should be held outside of the voting area to ensure doors and entrances are not blocked and the voting process is not disrupted.

The municipal clerk should make sure that media is briefed about acceptable conduct. Members of the media are strongly encouraged to conduct the majority of their activities outside of the room where the election is being conducted. It is the responsibility of the election official to deal directly with any media person who is harassing voters.

Polling Place Accessibility Assessments

Representatives from the Wisconsin Elections Commission, also known as reviewers, may assess accessibility requirements at Wisconsin polling places. The auditors will check in with the chief inspector at the polling place when beginning the review. The entire process will take 20 to 60 minutes and the reviewers will not interrupt the voting process. They may take photos of the polling place or voting equipment but will not take photos of ballots or voters. These individuals are not observers and should not be asked to sign in or wear an observer badge. The Wisconsin Elections Commission will reach out the clerk of the municipality with the findings of the review sometime after the election.

Electioneering

Electioneering is any activity intended to influence voting at an election. Electioneering is prohibited during voting hours on public property within 100 feet of any entrance used by voters to access the polling area:

- At the clerk's office during in-person absentee voting

- At any established alternate absentee voting location
- At a facility served by special voting deputies
- At the polling place

Wis. Stats. §§ 12.03(2), 12.035(3).

Note: This prohibition does not apply to electioneering on private property within 100 feet of an entrance to a polling place. The placement of election signs on private property within the 100-foot radius is permissible. Wis. Stat. § 12.035(4)(b).

State law prohibits the distribution of election-related material at the polling place on Election Day. Election-related material is any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting an absentee ballot at the office of the municipal clerk or an alternate site. Election-related material does not include required notices and postings by election officials.

Wis. Stats. §§ 12.03(4), 12.035(4)(a).

Some circumstances to consider:

Vehicles

1. There is an exception for election-related bumper stickers on vehicles parked within 100 feet of an entrance to a polling place for the length of time it takes for the occupants to vote.
2. Employees who work in the building containing the polling place may have stickers on their cars but if complaints are made, the employee should be asked to move his or her vehicle.
3. If it appears that the primary purpose of parking a vehicle within 100 feet of an entrance to a polling place is to influence voting, then election inspectors should attempt to contact the vehicle owner and have them move and should contact a law enforcement officer.

Election Materials

1. Campaign signs or flyers may not be posted or distributed within the polling place or within 100 feet of any entrance to a polling place.

2. This prohibition does not apply to campaign activity on private property within 100 feet of an entrance to a polling place. The placement of election signs on private property within the 100 feet radius is permissible.

Wis. Stat. § 12.03.

Exit Polls

1. Exit polls are permitted by Wisconsin law but must not interfere with the orderly conduct of the election.
2. Exit polls should be conducted outside of the polling place. Persons conducting exit polls must not interfere with the access of voters entering and leaving the polling place.
3. Electors should not be given the impression that their participation is required, and the exit poll should not resemble a sample ballot or otherwise imply that it is part of the election process.
4. Persons conducting exit polls are encouraged to contact the municipal clerk to discuss the conduct of exit polls, in order to take into consideration any unique circumstances created by the layout or configuration of a particular polling place.

Solicitations

Solicitations are not allowed in the voting area or inside a building housing the polling place as solicitors can interfere with the orderly conduct of the election. Solicitors must not interfere with the access of voters entering and leaving the polling place. However, solicitors do not have to be outside the 100 feet electioneering zone.

Petitions on Election Day

It is the formal opinion of the Wisconsin Elections Commission that soliciting signatures for a petition within 100 feet of a polling place on Election Day is NOT considered “electioneering,” provided that the petition is not related to the election at hand and does not attempt to influence the voter regarding that day’s vote. For example, petitions for the recall of an

elected official, the institution of referenda, or other petitions to a governing body are not considered “election-related material” and do not violate the relevant statutes on electioneering if they are not related to the election or contests on the ballot. However, petitioning inside the building containing the polling place on Election Day is considered disruptive, and is prohibited. Petitioners should circulate their petitions outside of the polling place to not interfere with the access of voters entering and leaving the polling place. Election officials will order persons petitioning inside the building containing the polling place to leave the building and summon law enforcement if necessary. Wis. Stats. §§ 7.37(2), 12.03(4), 12.035(4)(a).

Bake Sales

Bake sales and other activities not related to the election are permitted but not encouraged. If held, they should be set up in a separate room, or in a remote location, so that the orderly conduct of the election is not disrupted.

Challenging Voters

When there is reason to believe that an elector does not meet the qualifications to vote, the elector may be challenged.

1. Challenges may be brought by any qualified elector of the state including an election inspector.
 - a. If an election inspector is making the challenge, a second election inspector should administer the process.
2. All challenges must be made for reasonable cause as outlined on the Challenge Documentation of the Inspectors’ Statement (EL-104c). The election inspectors should use discretion when administering a challenge.
3. Inspectors should be trained on the procedure for handling challenges.
4. All challenges are recorded using the Challenge Documentation section (EL-104c) of the Inspectors’ Statement (EL-104). The form lists the procedures to follow and questions used to establish the challenge.

Challenge Procedure

1. When a challenge is made, the challenging elector is placed under oath and asked to make a sworn statement giving the reason for the challenge.
2. The challenging elector is then questioned by the election inspector using the questions on the challenge documentation form (EL-104c) to provide reasonable support for the challenge.
3. After the challenge has been made and supported under oath, the challenged elector is placed under oath and asked to make a sworn statement in response to the challenge.
4. If the challenged elector refuses to make a statement under oath, the elector shall not be given a ballot.
5. Once the challenged elector has responded to the challenge, the challenging elector has the opportunity to withdraw their challenge. If the challenge is withdrawn, a ballot is issued with no special marks, a notation is made in the Inspectors' Statement (EL-104), and no mark is made on the voter lists.
6. If the challenge is not withdrawn, the election inspector administers the "Oath of Eligibility" to the challenged elector. Once the oath has been made by the elector, a ballot is issued with the voter number and "Section 6.95" marked on the back of the ballot.
7. Once the challenged elector has marked the ballot, it is placed by the elector into the ballot box. A notation "Challenged" and the reason for the challenge is made on the voter lists and the appropriate sections of the Inspectors' Statement (EL-104) are completed by the election inspector.

Wis. Stats. §§ 6.94, 6.95.

Frequently Asked Questions

1. *Can the municipal clerk serve as an election inspector?*

The Wisconsin Elections Commission does not advise that a municipal clerk serve as an election inspector. If the municipal clerk must serve as an inspector,

they may not be a candidate on the ballot for that election. If the municipal clerk is on the ballot, they must find another qualified person to fill the vacancy.

2. *When is a challenge appropriate?*

Reasons for a challenge may include age, residency, citizenship, ability to sign the poll list, or disqualification from voting. All challenges should be made with reasonable and appropriate support. If an election inspector believes that an individual is abusing the challenge process, they may request that the person leave the polling place. Challenges must be brought before a ballot is issued.

3. *When is a challenge unacceptable?*

Any challenge to a person's right to vote because that elector is incapable of understanding the objective of the electoral process cannot be determined at the polls. Only a court can disqualify a voter as incompetent for purposes of registering to vote or the right to vote. Such a challenge should be dismissed and an unmarked ballot issued to the elector. Any challenge based on an individual's appearance, speech or inability to speak English is also unacceptable. A notation of the alleged grounds should be made on the challenge documentation form. The challenge should be dismissed and an unmarked ballot issued to the elector.

4. *Can anyone photograph and/or videotape the activities taking place in the polling place?*

Voters may photograph or videotape themselves or their ballots if it is not disruptive. Members of the media and polling place accessibility auditors may use photography and/or video cameras in the polling place during voting hours. The use of photography and video cameras by observers is prohibited.

5. *Do voters need to remove campaign buttons or t-shirts?*

It is best to permit the voter to cast their vote and leave. If the elector engages in electioneering or remains in the polling place as an observer, the individual should be directed to cover or remove any campaign paraphernalia they are wearing if the item is intended to influence voting at the election.

6. *Are exit polls allowed?*

Exit polls are permitted by Wisconsin law. However, exit polls must not be allowed to interfere with the orderly conduct of the election. The municipal

clerk should make sure the media is briefed about acceptable conduct for exit polls. Electors who complain about exit polls should be informed that they need not participate.

POST ELECTION ACTIVITIES

Summary

Even though election inspectors count the votes at the polls on election night, the official results of the elections are not determined until each official board of canvassers (for the municipality, county, state, school district, or other special purpose district) has met and completed the official canvass of their respective offices. The canvass statement is the official determination of the outcome of the election. The election is not complete and no recount can be requested until the canvass has been completed. Wis. Stats. §§ 7.53(4), 9.01(1)(a) 1.

Voters who cast provisional ballots may provide whatever documentation is required no later than 4:00 p.m. on the Friday after the election in order for their provisional ballot to be counted. The responsibility of processing and counting eligible provisional ballots is assigned to the Municipal Clerks, or Executive Directors, and the Municipal Board of Canvassers.

Composition of the Municipal Board of Canvassers (MBOC)

1. Municipalities with only one polling place.
 - a. In municipalities with one ward or where all of the wards vote at a single polling place and results are combined, the election inspectors constitute the municipal board of canvassers (MBOC).
 - b. All inspectors present at the polling place at the close of the polls complete the Board of Canvassers' Statement (EL-106) for municipal offices and municipal referenda on election night.

Likewise, the inspectors that signed the election night certification comprise the MBOC for any subsequent meeting to amend returns. However, if all of the inspectors who signed the election night certification are not available to amend returns, the clerk may replace the inspectors with a 3-member board of canvassers consisting of the clerk, the chief inspector and one other inspector.

If the clerk is a candidate at the election being canvassed, is a nonresident of the municipality or is unable to serve, the other two members shall

appoint a qualified elector of the municipality to serve in place of the clerk. If one of the other members is unable to serve, the municipal clerk shall appoint a qualified elector of the municipality as a replacement.

Wis. Stat. § 7.53(2)(d), (2m)(b).

2. Municipalities with more than one polling place.
 - a. In municipalities with two or more wards that are not combined, the municipal clerk and two qualified electors chosen by the clerk, serve as the MBOC.
 - b. They complete the Board of Canvassers' Statement (EL-106) for municipal offices and municipal referenda. If a member of the MBOC is unavailable, the clerk may designate a substitute.

Wis. Stat. § 7.53(2)(a)1.

In addition to these familiar duties, the MBOC are required to convene, whether or not there is a municipal election, whenever provisional ballots have been cast.

Wis. Stat. § 7.53.

Timeline for Convening the MBOC

1. Municipalities where the Election Inspectors Comprise the MBOC.
 - a. The inspectors must conduct the municipal canvass and make their initial determination on election night.
 - b. The inspectors must reconvene as the MBOC no later than 9:00 a.m. on the Monday following the election to process eligible provisional ballots.
 - i. If no eligible provisional ballots are returned, the MBOC does not need to reconvene and the clerk can certify that the election night results stand. See the EL-106P.
2. Municipalities where the Clerk and Two Others Comprise the MBOC.
 - a. When the municipal clerk and two other electors appointed by the clerk serve as the MBOC, the canvass shall begin no earlier than the time that

the MBOC receives the returns from all polling places on election night and no later than 9:00 a.m. on the Monday after the election.

Wis. Stats. §§ 6.97, 7.53.

Regardless of the Composition of the MBOC...

The MBOC may convene or reconvene (in the case of the poll workers serving as the MBOC who met election night to canvass municipal results) as soon as all pending provisional ballots have been determined eligible, but no earlier than 4 p.m. on the Friday after the election and no later than 9 a.m. on the Monday after the election. **Note:** Proper 24-hour meeting notice is required.

The 3-day period for petitioning for a recount of municipal offices and referenda does not begin until the day after the final meeting of the MBOC and the completion of the canvassing of the provisional ballots. Wis. Stat. § 9.01(1)(a) 1.

Timeline for Delivery of Election Night Returns to County, School District and Special Purpose District Clerks

The municipal clerk shall deliver all ballots, statements, tally sheets, lists and envelopes, **excluding any provisional ballots**, related to any county, school district or special purpose district election to the appropriate clerks by 4:00 p.m. on the day following each such election. Wis. Stat. § 7.51(5)(b).

Central Count Absentee Municipalities

The municipal clerk in municipalities that process absentee ballots at a central location shall deliver all ballots, statements, tally sheets, lists and envelopes, **excluding any provisional ballots**, related to any county, school district or special purpose district election to the appropriate clerks by 4:00 p.m. on the second day following each such election. Wis. Stat. § 7.51(5)(b).

Timeline for Delivery of Amended Returns to the Affected Boards of Canvassers

The amended returns must be delivered to the county, school district and special purpose district clerks no later than 4:00 p.m. on the Monday after the election. Wis. Stat. § 7.51(5)(b). County, school district and special purpose district boards of canvassers must meet no later than 9 a.m. on Tuesday (one week after an election.) In addition, school district and special purpose district boards of

canvassers must complete the canvass no later than 4 p.m. on the Tuesday after an election. Wis. Stats. §§ 7.53 (3)(a), 7.60(3).

Duties of Municipal Clerks

1. On Election Night, post the number of pending provisional ballots by reporting unit, on the Internet.
Wis. Stat. § 7.15(15).
2. On Election Night, transmit the EL-123r to the clerks of any other affected level of government by reporting unit. Wis. Stats. § 6.97(3)(b).
3. On Election Night, enter provisional ballot information {which has been recorded on the Provisional Ballot Reporting Form (EL-123r)} into the Provisional Ballot Tracking System. (If the municipality does not have web access, the WisVote provider enters this information.) 42 U.S.C. § 15482(a)(5)(B).
4. If the clerk receives an absentee ballot from an elector who is recorded as voting on Election Day, the clerk should also contact law enforcement immediately.
5. Provisional ballots are not counted until the required information driver license number, state ID card number or proof of identification is provided to either the election inspectors by 8:00 p.m. on Election Day, or to the municipal clerk or deputy clerk by 4:00 p.m. the Friday after the election.
 - a. Municipal clerks must be available to receive the missing information from electors who have a pending provisional ballot through 4 p.m. on the Friday after the election:
 - i. Electors who need to provide their WI driver license or WI DOT-issued ID card number can provide their number:
 1. Over the phone
 2. By electronic transmission
 3. By delivery
 4. In-person

- ii. Electors who need to provide proof of identification must provide their ID in-person.
 - b. Electors who provide their information after Election Day do not sign the poll list.
 - c. When an elector provides missing provisional information after Election Day, the municipal clerk must update the EL-123r with:
 - i. The type of provisional documentation provided
 - ii. The method used to provide the missing information
 - iii. The date and time the elector provided the missing information
 - iv. The clerk's name
 - d. The Provisional Ballot Tracking System must also be updated when an elector provides missing provisional information after Election Day.
- 6. Continually update the EL-123r as provisional ballots become eligible to be counted, and continually enter the updated information into the Provisional Ballot Tracking System or transmit the updated information to your provider for Provisional Ballot Tracking System entry.

Immediately after the 4:00 p.m. Friday deadline, transmit the final EL-123r forms to the clerks of any other affected level of government (and to your WisVote provider, if necessary).

- 7. Publish a 24-hour open meeting notice and notify the MBOC of the time and location of the meeting. Notice of the meeting which includes the date, time, place and subject matter of the meeting should be sent to the local media at least 24 hours in advance of the meeting. Wis. Stat. § 19.84.
Note: You may have observers in attendance.
- 8. Provide all necessary materials for the MBOC (see the Supplies Checklist in the appendix of this document).
- 9. Take minutes at the MBOC meeting or assign this duty.

Processing Provisional Ballots

- A. Examine all EL-123r forms to determine which voters have supplied the missing information necessary for their ballots to be processed.
- B. Verify the tamper-evident seal numbers on the ballot container holding the provisional ballots and record the findings on the Record of Activity (EL-104P).
- C. Open the ballot container holding the Election Day provisional ballots and retrieve the envelopes containing the ballots to be processed.
- D. Process one provisional ballot at a time. Examine the Provisional Ballot Certificate Envelope (EL-123) for sufficiency, following the same procedure used in processing absentee ballots.
 1. Reject the provisional ballot if the envelope is not sufficient or appears to have been tampered with.
 - a. Mark the envelope (EL-123) “Rejected.”
 - b. Write “Rejected” on the Provision Ballot Reporting Form (EL-123r) in the “voter number” column.
 - c. Record the rejection on the Record of Activity (EL-104P).
 - d. Return the unopened EL-123 to the Election Night Provisional Ballot Bag/Container.
 2. If the provisional ballot envelope is sufficient:
 - a. Assign a voter number to the elector.
 - i. Look for the last voter number issued in the appropriate reporting unit and assign the next consecutive number to the voter.
 - ii. Record the number on the EL-123r.

- b. Place the Provisional Certificate Envelope in a large envelope marked “Used Provisional Ballot Envelopes.”
 - c. Place the ballot in the “privacy container” for tally later in the process.
- E. After all provisional ballots have been processed, reconcile the number of voters with the number of provisional ballots.
1. Count the number of ballots in the privacy container to ensure the number of ballots equals the number of additional voter numbers issued for provisional ballots.
 2. Return ballots to privacy container and mix.

F. Tally the Votes

Count and record the votes on two separate Tally Sheets (EL-105).
Reconcile the tally sheets when the counting for each office is complete.

1. Determine if any of the ballots are “Defective.”
 - a. A “Defective ballot” is a ballot for which a majority of the election inspectors agree that voter intent cannot reasonably be determined.
 - b. A ballot can be defective for some offices and valid for others. Only valid votes on each ballot are counted. The reason for the defect should be recorded on the Record of Activity (EL-104P).
 - c. A defective ballot is labeled “Defective Ballot # __” (beginning with ‘1’), set aside and preserved.
 - i. Defective ballots may be placed in an envelope marked “Defective/Objected To Provisional Ballots or”
 - ii. Bundled together and labeled “Defective Provisional Ballots”
2. Determine if any of the ballots are “Objected To.”
 - a. An “Objected To” ballot is a ballot for which a majority of the election inspectors agree that voter intent can or cannot be

determined, but at least one election inspector disagrees. The reason for the objection is recorded on the Record of Activity (EL-104P).

- b. A ballot may be “Objected To” with respect to one or more offices. “Objected To” ballots are counted if the majority agrees on intent.
- c. An “Objected To” ballot is labeled “Objected To Ballot # __” (beginning with ‘1’), set aside and preserved.
 - i. “Objected To” ballots may be placed in an envelope marked “Defective/Objected To Provisional Ballots or”
 - ii. Bound together and labeled “Objected To Provisional Ballots”

Bundle the counted provisional ballots together and set aside.

- e. Announce the results of the tally of provisional ballots.

Wis. Stat. § 6.97(2), (3).

Securing and Documenting

A. Ballots

1. Place the counted provisional ballots and the Defective/Objected to Provisional Ballots in a ballot bag or container.
 - a. Secure the container with a tamper-evident seal.
 - b. Record the tamper-evident seal number on the Ballot Container Certificate (EL-101) and the Record of Activity (EL-104P)
3. Reseal the ballot container holding the Election Day provisional ballots with a tamper-evident seal.
 - a. Record the tamper-evident seal number on the Ballot Container Certificate (EL-101) and the Record of Activity (EL-104P).

B. Envelopes

1. Secure the large envelopes containing:

- a. Used Certificate Absentee Envelopes (EL-103)
 - b. Rejected Absentee Ballots (EL-102)
 - c. Used Provisional Certificate Envelopes
- C. Complete Forms and Sign any Certifications
- 1. Ballot Container Certificates (EL-101)
 - 2. Rejected Absentee Ballots Envelope (EL-102)
 - 3. Used Absentee Certificate Envelope (EL-103)
 - 4. Used Provisional Certificates Envelope
 - 5. Record of Activity (EL-104P)
 - 6. Certification of the MBOC (EL-106P)
 - 7. Tally sheets and machine tapes (EL-105)
 - 8. Provisional Ballot Carrier Envelope (EL-108)
 - 9. Provisional Ballot Reporting Form (EL-123r)
 - 10. Absentee Ballot Log (EL-124)

Conducting the Municipal Canvass (MBOC)

Canvassing Municipal Offices and Municipal Referenda

The Municipal Board of Canvassers meets after each election, regardless if there were municipal offices or municipal referenda on the ballot, to make the official determination of the outcome of the municipal election. Follow the Municipal Board of Canvassers instructions located in the *Election Day Manual*. The MBOC uses the Statement of the Board of Canvassers (EL-106) for this purpose.

If the MBOC has already met and completed an EL-106 and is reconvening to process and count provisional ballots, the municipal canvass will have to be amended.

3. Tabular Statement

- a. Complete a new tabular statement for each municipal office and municipal referendum.
- b. Record only the votes counted for provisional ballots in each office for each reporting unit.
- c. Total the votes cast in each reporting unit (across) and for each candidate (down) and record the grand total for each office.

4. Summary Statement

- a. Complete a new summary statement, using the information from the tabular statement, for each municipal office and municipal referendum.
- b. Attach a copy of the *original* summary statement to the new summary statement.
- c. Record the totals from the first summary statement next to the totals on new summary statement.
- d. Add them together and determine a new grand total for each office and referenda.

5. Certification

- a. Complete and sign the Certification.

Breaking a Tie in a Municipal Contest

A tie vote in a municipal contest is broken by the Municipal Board of Canvassers. The MBOC should use a method that results in a random outcome, such as flipping a coin or drawing names out of a hat. The procedure should be documented. If all of the candidates are present, they can draw to break the tie themselves. When a municipal referendum results in a tie, the referendum fails. Wis. Stat. § 5.01(4).

Routing Materials

All materials are delivered to the municipal clerk, but should be separated as follows:

A. Municipal Clerk

1. Municipal ballots (if separate ballots) sealed in a ballot container.
2. One original of each Tally Sheet (EL-105) and one copy of the voting machine tape, if any.
3. Record of Activity (EL-104P) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
4. Absentee Ballot Log (EL-124) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
5. Provisional Ballot Reporting Form (EL-123r) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
6. Statement of the MBOC (EL-106P) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
7. Statement of the Municipal Board of Canvassers (EL-106), if required.

B. School District Clerk

1. School District Ballots (if separate ballots) sealed in a ballot container.
2. One original Tally Sheet (EL-105) of school district offices and referenda and one copy of the voting machine tape, if any.
3. One certified copy of the Inspectors' Statement (EL-104) and one certified copy of the Record of Activity (EL-104P)
4. One copy of the Provisional Ballot Reporting Form (EL-123r)

5. One copy of the Absentee Ballot Log (EL-124)

6. A certified copy of the poll list (EL-107, EL-107s)

C. County Clerk

1. Ballot containers with all federal, state, county and technical college ballots.

2. Provisional and absentee ballots sealed in separate ballot containers.

3. Election night provisional ballots resealed in the original ballot bag from election night.

4. The Rejected Absentee Ballots Envelope (EL-102)

5. The Used Absentee Certificates Envelopes Envelope (EL-103)

6. The Used Provisional Certificates Envelope

7. One Original Tally Sheet (EL-105) of federal, state, county and technical college offices and/or referenda and one copy of the voting machine tape, if any.

8. One certified copy of the Record of Activity (EL-104P)

9. One copy of the Provisional Ballot Reporting Form (EL-123r)

10. One copy of the Absentee Ballot Log (EL-124)

11. One certified copy of the Statement of the MBOC (EL-106P)

Municipal Clerk Follow-up

Municipal clerks deliver the amended returns and other documents to the county, school district and special purpose district no later than 4:00 p.m. on the Monday after the election. See Routing above.

Municipalities that use e-pollbooks will need to work with their school district and county clerks to determine whether the poll book needs to be printed or **transmitted electronically** for delivery.

WisVote Related Notes

1. Self-Providers

- a. After the municipal board of canvass, Self-Providers must update office holders in WisVote with new or re-elected officials for municipal offices.
- b. For more information about entering office holders in WisVote, see the WisVote User manual, which is available in the WEC Learning Center.

2. Reliers

After the municipal board of canvass, Reliers must ensure their Provider receives a copy the Certification of the Board of Canvassers or a list of municipal contest winners for entry into WisVote.

3. Providers

- a. Providers must update the officer holders in WisVote with new or re-elected officials for municipal offices in a relying municipality.
- b. Counties are responsible for entering the office holders for county and school district offices.
- c. For more information about entering office holders in WisVote, see the WisVote User manual, which is available in the WEC Learning Center.

Certificate of Election

1. The municipal clerk shall promptly issue a Certificate of Election (EL-153) to each person elected to any municipal office after the deadline for filing a

petition for recount has passed, three business days following the certification by the municipal board of canvassers.

2. When a valid petition for a recount is filed, the municipal clerk may not issue the Certificate of Election (EL-153) for the office in question until the recount has been completed and the time allowed for filing an appeal has passed.
 - a. An appeal may be filed in the circuit court within five business days after completion of the recount by the board of canvassers.
 - b. If an appeal is filed in the circuit court, the municipal clerk shall not issue the Certificate of Election (EL-153) until after the appeal is decided.

Wis. Stat. § 7.53(4).

Absentee List Maintenance

Wisconsin law provides electors the option to request that absentee ballots be sent to them automatically for every election within a calendar year (or automatically for every election for indefinitely-confined voters). However, the law also requires the elector to return a ballot each time a ballot is sent to them, otherwise the application may be canceled. **If an elector with a calendar year absentee request does not return a ballot for an election, the elector must contact the clerk in writing to request continuation of their calendar year absentee ballot request.** Clerks must reconcile their absentee ballot logs to identify voters who did not return a ballot and cancel their absentee applications accordingly. Wis. Stat. § 6.86(2m)(a).

Regular Absentee Electors - Calendar Year Requests

1. At each primary **election**, spring election, general election or special election, the clerk shall determine if any voters with a calendar year request failed to return a ballot.
 - a. A ballot is considered “returned” if it was returned to the clerk’s office or polling place in the certificate envelope regardless of whether that ballot was ultimately counted or rejected.
2. The clerk shall remove from the list the name of each person who:

- a. Did not return a ballot for a primary **election**, spring election, general election, or special election.
 - i. The canceled absentee voter may request reinstatement of their calendar year request if their application was cancelled.
 - b. Requests their name be removed from the list.
 - c. No longer qualifies as an elector (upon receipt of reliable information).
3. If the cancellation is not at the voter's request, the clerk shall send a notice within 5 days of the cancellation, if possible.

Wis. Stat. § 6.86(2m)(a), (b).

Indefinitely Confined Electors

1. At each spring election, general election or special election, the clerk shall determine if any voters from the indefinitely confined list failed to return a ballot.
 - a. A ballot is considered "returned" if it was returned to the clerk's office or polling place in the certificate envelope regardless of whether that ballot was ultimately counted or rejected.
2. The clerk shall send a 1st class letter or postcard informing the voter that his or her name will be removed the list unless the voter applies for renewal within 30 days.
 - a. Renewal can be accomplished by any written notification.
3. The clerk shall remove from the indefinitely confined list the name of each person who:
 - a. Did not return a ballot for a spring election, general election or special election, was sent a 30-day notice and did not renew the application by the deadline.
 - b. Requests their name be removed from the list.

- c. No longer qualifies as an indefinitely confined elector (upon receipt of reliable information).
 - i. The clerk shall send a notice within 5 days of the cancellation, if possible.

Wis. Stat. 6.86(2).

Military and Permanent Overseas Electors

1. Military and Permanent Overseas electors may request to receive all ballots in a calendar year.
2. Military and Permanent Overseas electors' absentee applications are not subject to cancellation for failure to return a ballot.
3. Military or Permanent Overseas electors' applications may be canceled early if:
 - a. The elector requests their absentee application be canceled.
 - b. The clerk receives reliable information that the elector no longer qualifies as a military or overseas elector.
 - i. Military electors continue to be treated as military electors for 28 days after their date of discharge, termination of service, or employment that qualifies them for military elector status.
4. If the cancellation is not at the voter's request, the clerk shall send a notice within 5 days of the cancellation, if possible. Wis. Stat. § 6.22(4)(a), (f), (h), and §6.24(4)(c).

Frequently Asked Questions

1. *When may the municipal clerk issue certificates of election to winning candidates?*

The municipal clerk shall issue certificates of election once the deadline for petitioning for a recount has passed, and there is no recount or litigation pending. The clerk may either mail or personally deliver the certificates to the winning candidates.

2. *May a person serve on the board of canvassers if that person is a candidate for an office to be canvassed by that board?*

No person may serve on the board of canvassers if that person is a candidate for an office being canvassed by the board, except a municipal clerk running unopposed that does not have an opponent whose name appears on the ballot. If the clerk is a candidate at an election being canvassed and has an opponent, the presiding officer of the municipality shall designate another qualified elector of the municipality to serve in lieu of the clerk for that election.

3. *May a relative of a candidate serve as a member of the Board of Canvassers?*

The WEC has concluded that the Ethics Code for Local Public Officials prohibits an election inspector from working at a specific election under circumstances in which a candidate's success or failure to win election would affect the inspector financially, including if a candidate is a spouse or immediate family member of the election inspector. *(Violations of the Ethics Code for Local Public Officials are enforced by local district attorneys. Therefore this opinion is advisory and is not binding on district attorneys who are responsible for making determinations based upon individual facts and circumstances.)*

4. *May the board of canvassers open a sealed ballot bag?*

During an open session of the board of canvassers, the board may open the bag to remove forms improperly placed in the ballot bag or to correct errors identified during the canvass process. The opening of bags should be clearly documented in the minutes and the bags must be resealed with a tamper-evident seal. The number of the new seal must be documented on the Ballot Bag Certificate (EL-101), in the minutes and on any security documentation.

5. *What happens if, on examination, any of the returns received are so informal or defective that the board cannot intelligently canvass them?*

If any information is incomplete or inaccurate (for example, if the number of votes does not match the number of voters on the poll list, there is no Inspectors' Statement, etc.) the board may dispatch messengers to obtain complete and correct information from inspectors and election inspectors may be called in to correct errors.

Supplies Checklist for Processing Provisional Ballots

- Paper and Pens**
- Empty Ballot Bags or Containers and Ballot Container Certificates (EL-101)**
- New Envelope for Used Provisional Certificate Envelopes**
This can be a large envelope containing a certificate similar to the EL-103.
- New Envelope for Defective/Objected To Provisional Ballots**
(Or Defective and Objected to Provisional Ballots can be bundled separately rather than placed in an envelope.)
- Record of Activity (EL-104P)**
The MBOC records any noteworthy incidents or decisions on the EL-104.
- Blank Challenge Documentation (EL-104c)**
Observers or MBOC may challenge an elector's right to vote. Please See Challenging Electors section of the Election Day manual for challenge procedures.
- New Tally Sheets (EL-105)**
Votes are tallied on duplicate original tally sheets; two tally sheets each for federal, state and county offices and referenda; municipal offices and referenda; school district offices and referenda; special purpose district offices or referenda.
- Statement of the MBOC (EL-106P)**
A reconciliation and certification completed by the MBOC when processing of provisional ballots is complete.
- New Provisional Ballot Carrier Envelope (EL-108)**
- New Provisional Ballot Certificate Envelopes (EL-123)**
- Privacy container**
A box or other container in which processed ballots are placed and shuffled before tallying.

Election Materials from Each Reporting Unit

- Municipal copy of the poll lists (EL-107)**
For reference only.
- Provisional Ballot Reporting Form(s) (EL-123r)***
From Election Day and as processed by the municipal clerk.
- Provisional ballots secured in a ballot bag**

***NOTE: Provisional Ballot Reporting Forms on which voter numbers are recorded at the meeting of the MBOC must be retained for 22 months.**

If conducting a municipal canvass for municipal offices and referenda, please see the Election Day Manual for canvass procedures and necessary materials.

RECOUNTS

Summary

A recount is the exclusive remedy to test the right of a candidate to hold office based on the number of votes cast at an election. Any candidate voted for may request a recount of the office to which he or she was seeking election. Likewise, any elector who voted on a referendum may request a recount of the referendum. The Wisconsin Elections Commission (WEC) has prepared a detailed set of procedures for conducting recounts. Municipal clerks may obtain a copy of the *Recount* manual from the WEC website. A copy of the manual should be made available to all affected candidates and members of the board of canvassers.

Procedures

Recount Petition

Immediately after the election results are known, clerks should determine whether there is a possibility of a recount. While clerks are not required to inform potential petitioners of their right to a recount, they should make every effort to have the information available to interested persons. It is important to provide all individuals with the same information. The best approach is to provide an interested person with as much information as possible.

The Wisconsin Elections Commission has developed a sample Recount Petition (EL-186) that is available on the WEC website.

1. The recount petition must be filed no later than 5:00 p.m. on the 3rd business day following certification by the board of canvassers.
Wis. Stat. § 9.01(1)(a)(1).
2. The petition must be sworn under oath.

The petition may simply allege that the petitioner believes that a mistake was made in the conduct of the election. If the petitioner wants *specific* allegations of fraud or election irregularities investigated, he or she must set forth those allegations in the petition. Wis. Stat. § 9.01(1)(a)(1).

Determining Recount Fees

1. If 4,000 or fewer votes are cast:

No fee is required if the difference in the total votes cast between the leading candidate and those cast for the petitioner or between the affirmative and negative votes cast at a referendum is less than 10. If the difference is at least 10 votes, a fee is required.

Note: In elections where voters are asked to vote for more than one candidate for a position, the “leading candidate” is the candidate who received enough votes to fill the last available position. For example, at a school board election where a voter is asked to select three candidates, the “leading candidate” would be the candidate who won the last seat (with the third-most votes), not the candidate who received the most votes.

2. If more than 4,000 votes are cast:

No fee is required if the difference in the total votes cast between the leading candidate and those cast for the petitioner or between the affirmative and negative votes cast at a referendum is no more than one quarter of one percent (.25%). If the difference is greater than .25%, the petitioner must pay a fee.

When a fee is required, the cost of the recount should be estimated by the clerk and pre-paid by the petitioner in cash or in another form of payment acceptable to the filing officer at the time of filing the recount petition. Wis. Stat. § 9.01(1)(ag)3.

Conducting the Recount

The proper board of canvassers shall reconvene no earlier than 9:00 a.m. on the day following delivery of notices to all candidates and no later than 9:00 a.m. on the day after the deadline for filing the petition for recount.

Wis. Stat. § 9.01(1)(ar)(3).

1. The municipal clerk may choose a substitute member to serve on the recount board of canvassers when an original member is unable to serve. Wis. Stats. §§ 7.53(1)(b) and (2)(a) and, 7.60(2).
2. The board of canvassers must allow the candidates or their representatives to observe the proceedings and to raise any objections to the procedure of the recount or to the ballots on their merits.

3. The board of canvassers is responsible for ensuring that the recount is conducted in an orderly manner and not interfered with by the candidates, their representatives, or the media.
4. Detailed minutes of the recount proceedings are required by law.
Wis. Stat. § 9.01(5).
 - a. The minutes must include a record of objections, all offers of evidence, all exhibits, and all specific findings of fact regarding any irregularity discovered during the recount.
 - b. A copy of the minutes of any recount must be provided to the filing officer and to the Wisconsin Elections Commission.
 - c. A sample format for keeping recount minutes is set out in the *Recount* manual.

Tabulating Method

Unless a court orders otherwise, Wisconsin law permits the board of canvassers to decide to tabulate the results of the recount either by hand or by using automatic tabulating equipment. The board of canvassers may also count by hand for some wards while using automatic tabulating equipment to tabulate other wards.

Wis. Stat. § 5.90(1).

1. The board of canvassers shall test any automatic tabulating equipment to be used before the recount.
2. Any candidate or any elector when voting at a referendum may, by the next day after the deadline for requesting a recount, petition the circuit court for an order requiring ballots to be counted by hand or by another method approved by the court.
3. If municipalities employ direct recording electronic (DRE) voting equipment, the board of canvassers shall perform the recount using the voter verified paper audit trail (VVPAT) cast by each elector, as generated by the equipment.

Appeals

1. An appeal of the recount determination may be filed in circuit court within five days after the completion of the recount.
2. The filing officer may not issue a certificate of election until the deadline for filing all appeals has passed and the election results are final. Wis. Stat. §§ 9.01(6), (7), (8) and (9).

Frequently Asked Questions

1. *If a recount fee is required, must it be collected before starting the recount?*

If the petitioner is required to pay a fee, the clerk must provide the petitioner with an estimate of the total cost of the recount and the petitioner must pay that amount at the time that he or she files the petition for the petition to be considered valid. If the actual cost of the recount is greater than the fee imposed, the petitioner shall pay any balance owed within 30 days after the clerk provides the petitioner with a written statement of the amount due. If the actual cost of the recount is less than the fee imposed, the clerk shall refund the balance within 30 days of the board of canvassers' final determination.

2. *Are recount proceedings open to the public?*

Recounts are open to the public and require proper notice under the open meetings law. Participants and observers must be allowed to view and identify all materials and ballots. However, only members of the board of canvassers may touch any of the materials or ballots. The board of canvassers is responsible for ensuring the recount is conducted in an orderly manner and not interfered with by the candidates, their representatives, or the media.

3. *Are candidates whose office is involved in recount required to be notified?*

The municipal clerk is responsible for informing all candidates of the time and location of the recount. The recount should not begin until the board of canvassers has determined that these notices have been given.

RECALL ELECTIONS

Summary

Wisconsin law permits voters to recall elected officials under certain circumstances. Recall is an opportunity for voters to require elected officials to stand for election before the end of the official's term. No petition for recall of an officer may be offered for filing before the expiration of one year after commencement of the term of office for which the officer is elected. The Wisconsin Elections Commission (WEC) staff has prepared a manual, *Recall of Local Elected Officials*, which can be found on the agency website.

Procedures

Registration Required

The individual or committee petitioning the recall must be registered.

1. Before a recall petition may be circulated, the individual or committee seeking the recall of an elected official must file a Campaign Registration Statement (CF-1) with the filing officer.
2. The Campaign Registration Statement (CF-1) must clearly indicate that the committee is registering as a recall committee and identify the officeholder(s) it seeks to recall.
3. A statement of intent must be attached to the Campaign Registration Statement (CF-1) form indicating:
 - a. The petitioner's intent to circulate a recall petition
 - b. The name of the officeholder for whom recall is sought
 - c. The reason for the recall which is related to the official responsibilities of the officeholder, the same reason must appear on the petition

4. No signature on a recall petition is valid until the Campaign Registration Statement (CF-1) and a statement of reasons for the recall has been filed with the filing officer.

Wis. Stat. §9.10(2)(d).

Petition Signatures

1. The filing officer with whom recall petitions are filed is required to determine the appropriate number of signatures and certify that amount to any interested person on request.
2. Recall petitions must contain signatures of qualified electors equal to at least 25% of the vote cast for the office of governor at the last election in the same district or territory as that of the officeholder being recalled.

Wis. Stat. § 9.10(1)(b).

Sample Recall Petition (EL-170)

A sample Recall Petition (EL-170) has been prepared by the Wisconsin Elections Commission and is available on the agency website.

1. Any recall petition shall be identified by the words “RECALL PETITION” at the top of the form.
2. All recall petitions for local elected officials shall contain a statement of reasons for which the recall is sought. The reasons for the recall must be related to the officeholder’s official duties.
3. Petitions seeking recall of more than one elected official must be prepared and filed separately.

Wis. Stat. § 9.10(2).

Circulation Time Period

A recall petition may be circulated after filing the Campaign Registration Statement (CF-1).

1. The recall petition must be filed no later than 5:00 p.m. on the 60th day commencing after registration.

After the petition has been offered for filing, no name may be added or removed.

2. Only signatures dated within the circulation period may be counted.

Wis. Stat. § 9.10(2)(d).

Candidate Eligibility

1. The official against whom the petition is filed shall be a candidate at the recall election without nomination, unless the official resigns within ten days after the certification of the recall petition.
2. In order to have their names placed on the ballot at the recall election, candidates, other than the incumbent, must file nomination papers, declarations of candidacy, and campaign registration statements no later than 5:00 p.m. on the 4th Tuesday before the election.

Wis. Stat. § 9.10(4)(e).

Recall Primary

1. A recall primary will be held in nonpartisan recall elections if more than two candidates compete for an office.
2. The names of the two candidates who receive the highest number of votes in the recall primary will be certified and printed on the ballot for the recall election.
3. A recall election will not be held if a candidate receives a majority (50% plus 1) of the votes at the recall primary.
4. Write-in votes are permitted only at a recall primary or at a recall election in which no primary is held.

Wis. Stat. §9.10(4)(f) and (g).

Recall Election

1. The recall election is held on the Tuesday of the 6th week after the recall petition is certified.
2. If a primary is required, the primary is held on Tuesday of the 6th week after the recall petition is certified, and the recall election is held on Tuesday of the 4th week after the primary election.

Wis. Stat. § 9.10(4)(d)

Frequently Asked Questions

1. *May individuals petition for recall if the office holder has been in office for less than one year for the current term being served?*

No petition for recall of an officer may be offered for filing before the expiration of one year after commencement of the term of office for which the officer is elected. The officer's actual time in office is not relevant. A petition may be circulated before the expiration of one year (subsequent to registration), but may not be offered for filing until one year of the term of office has elapsed.

2. *Are filing officers required to publish a notice for recall elections like all other elections?*

Recall elections are noticed, conducted, and canvassed like all other regular elections administered by the filing officer.

3. *Who may circulate recall petitions?*

Any U.S. citizen, age 18 years or older and not disqualified from voting under the impediments listed in Wis. Stat. § 6.03, may circulate recall petitions.

OTHER ELECTION MATERIALS

Cost of Elections

The following is a breakdown of who is responsible and who pays for certain election-related costs. Wis. Stat. § 5.68.

COST OF ELECTIONS				
Item	County Clerk is responsible <i>(for Federal, State, and County Elections and State and County Referenda)</i>	Municipal Clerk is responsible <i>(for Municipal Elections and Referenda)</i>	School Clerk is responsible <i>(for School District Elections and Referenda)</i>	Who Pays? <i>(See "Special Notes")</i>
<i>Polling Places</i>				
Establishing and changing Polling Places		X		Municipality
<i>Notices</i>				
Type A	X	X	X	Jurisdiction responsible - Can be prorated proportionately if notice is combined with other jurisdictions.
Type B	X	X	X	Jurisdiction responsible - Can be prorated proportionately if notice is combined with other jurisdictions.
Type C	X	X	X	Jurisdiction responsible
Type D		X*	X ⁺	<i>Municipality</i> --Can be prorated proportionately if notice is combined with other jurisdictions. <i>School district for special⁺ school district election event.</i>
Type E		X*	X ⁺	<i>Municipality</i> --Can be prorated proportionately if notice is combined with other jurisdictions. <i>School district for special⁺ school district election event.</i>
<i>Polling Place Notices</i>				
EL-111, EL-112, EL-114, EL-115, EL-117, EL-118		X		Municipality

COST OF ELECTIONS				
Item	County Clerk is responsible <i>(for Federal, State, and County Elections and State and County Referenda)</i>	Municipal Clerk is responsible <i>(for Municipal Elections and Referenda)</i>	School Clerk is responsible <i>(for School District Elections and Referenda)</i>	Who Pays?
<i>Supplies</i>				
Absentee Ballot Mailing Envelopes, Certificate Envelopes and Postage		X		Municipality
Used Certificate Env. of Absentee Elector (EL-103)	X	•	❖	Jurisdiction responsible for providing materials
Certificate of Rejected Absentee Ballots Env. (EL-102)	X	•	❖	Jurisdiction responsible for providing materials
Provisional Ballot Certificate Env. (EL-123)		X		Municipality
Provisional Ballot Reporting Form (EL-123r)	X	•	❖	Jurisdiction responsible for providing materials
Inspectors' Certificate of Provisional Ballots Env. (EL-108)	X	•	❖	Jurisdiction responsible for providing materials
Inspectors' Statement (EL-104 & 104c)	X	•	❖	Jurisdiction responsible for providing materials
Write-in Candidate tally sheet (modified EL-105) 2 per reporting unit	X	X	X	Jurisdiction responsible for providing materials
Pre-printed registration list from WisVote		X		Municipality-may be prorated proportionately among jurisdictions
Election Day Reg. Voter List & Supplemental List (EL-107)	X	•	❖	Jurisdiction responsible for providing materials
Voter numbers	X	•	❖	Jurisdiction responsible for providing materials-may be prorated proportionately among jurisdictions
"Return to County" "Return to Municipality" "Return to S.D.," Envs.		X		Municipality
<i>Ballots & Associated Materials</i>				
Paper (Hand Count)	X	X	X	Jurisdiction required to provide ballots
Optical Scan	X	X	X	Prorated proportionately among jurisdictions
Ballot Bags w/certificate (EL-101), ties/seals, "chain of custody" documentation	X	X	X	Jurisdiction responsible (Where op scan ballots are used, cost is prorated among jurisdictions.)

COST OF ELECTIONS				
Item	County Clerk is responsible <i>(for Federal, State, and County Elections and State and County Referenda)</i>	Municipal Clerk is responsible <i>(for Municipal Elections and Referenda)</i>	School Clerk is responsible <i>(for School District Elections and Referenda)</i>	Who Pays?
<i>Labor</i>				
Election Inspectors, EROs, Tabulators SVDs		X		Municipality for all regularly-scheduled elections* OR jurisdiction calling special election.
Board of Canvassers, Tabulators	X	X	X	Jurisdiction requiring canvass
Messengers		X (when delivering materials to county or school district)		Municipality
	X (When delivering materials back to municipality)		X (When delivering materials back to municipality)	Jurisdiction delivering materials
<i>Equipment</i>				
Voting Machines/Systems, ballot boxes, voting booths, pens, pencils		X		Municipality
Set up of machines (moving machines from one place to another)		X		Municipality
Maintenance of machines (making sure machines are in good repair; repairing when break down occurs)		X		Municipality
Preparation and programming of electronic voting systems	X			Jurisdiction Responsible (When programming includes municipal or other district offices, the municipality or district pays proportionately.)

- **Municipal Clerk** supplies (and pays for) when there are no federal, state or county elections.
- ❖ **School Clerk** supplies (and pays for) when there are no federal, state, county or municipal elections.

Special Notes:

- If no other level of government is involved in a school or special district election, *whether regularly-scheduled election* or special election+*, the district shall pay for all costs of the ballots, supplies, notices and other materials. Wis. Stat. § 5.68(2).
- When a county, school district, or special purpose district holds a special election *at a time other than a regularly scheduled election**, all costs of the election are the responsibility of the jurisdiction calling the special election (all costs of the ballots, supplies, notices and other materials, *including* the cost of the polling place and election inspector(s). Wis. Stats. §§ 5.68(2), (5), 7.03(1)(bm).

* Regularly scheduled elections are the February spring primary and April spring election and, in even-numbered years, the August partisan primary and November general election.

+A Special Election is an election scheduled outside the four regularly-scheduled election days.

*Regularly scheduled elections are the February spring primary and April spring election and, in even-numbered years, the August partisan primary and November general election.

+A Special Election is an Election scheduled outside the four regularly-scheduled election days.

Destruction of Materials

The following chart is designed to assist clerks in determining when to destroy election materials. Materials and supplies associated with an election may be destroyed according to the following chart unless there is a recount, notice of an election contest, or any contest or litigation pending with respect to the election. For specific dates please see the *Calendar of Election and Campaign Events* from the Wisconsin Elections Commission. All materials and documentation associated with a federal election must be retained at least 22 months after the election. Wis. Stat. § 7.23.

Materials	Destruction Date
Contents of a discarded ballots box, such as discarded partisan primary ballots	3 business days after all canvasses are completed for an election*
Unused ballots	3 business days after all canvasses are completed for an election*
Voter number tickets or slips	90 days after an election
	22 months after a federal election***
Memory devices, test decks, results tapes	14 days after a primary
	21 days after an election**
Voted Ballots (state, county, local offices)	30 days after an election
Voted Ballots (federal offices)***	22 months after a federal election
Applications and certificate envelopes for absentee ballots	90 days after an election
	22 months after the election for federal election ballots ***
Forms associated with the election such as tally sheets, Inspectors' Statements (EL-104), Declarations of Candidacy (EL-162), and nomination papers, incomplete EL-131s or voter applications lacking POR.	90 days after an election
	22 months after a federal election***
Official canvass statements	10 years after an election
Voter lists (aka poll lists, poll book lists)	22 months after an election
Absentee Ballot Log and Provisional Ballot Reporting Form (EL-123r)	90 days after an election when votes are not recorded by the MBOC (22 months after a federal election***)
	22 months after an election when votes are recorded by the MBOC
Inactivated voter registration applications	4 years after the cancellation
Election notices	1 year after the election
	22 months after the federal election***

Proofs of publication of notices and correspondence relative to publications	1 year after the election
	22 months after a federal election***
Clerk Materials (e.g. late absentee ballots)	90 days after an election 22 months after a federal election***
Notifications of Noncandidacy (EL-163)	6 years after termination by the registrant
Election Voting and Registration Statistics Reports (EL-190)	22 months after the election for which they were created

* Unless a petition for recounts is filed, in which case the materials must be retained.

** Before units can be cleared or erased, the information must be transferred to a disk or other recording medium and retained for 22 months. This provision applies to elections that contain a federal office. For additional information on retention requirements for electronic media please see the clerk communication dated June 9, 2010, available on the G.A.B. website.

*** Federal offices are President of the U.S., U.S. Senator and U.S. Representative in Congress.

Electronic Conversion of Election Records

The Legislature, in Wis. Stat. § 7.23, established a schedule for the destruction of election materials, but it did not provide in that statute, or in any other elections statute, a schedule or timetable for the conversion of elections records from “hard-copy” to electronic format or to microfiche.

The statute that authorizes the conversion of hard copies, Wis. Stat. § 19.21(4)(c), reads as follows:

(c) Any local governmental unit or agency may provide for the keeping and preservation of public records kept by that governmental unit through the use of microfilm or another reproductive device, optical imaging or electronic formatting. A local governmental unit or agency shall make such provision by ordinance or resolution. Any such action by a subunit of a local governmental unit or agency shall be in conformity with the action of the unit or agency of which it is a part. Any photographic reproduction of a record authorized to be reproduced under this paragraph is deemed an original record for all purposes if it meets the applicable standards established in §§ 16.61 (7) and 16.612. This paragraph does not apply to public records kept by counties electing to be governed by Chapter 228.

At its July 18, 2007 meeting, the former State Elections Board formally adopted the recommendation that counties or municipalities who convert their elections or campaign finance records from paper or “hard-copy” to microfilm or electronic format must retain the “hard copies” of those records for at least

two years after the election immediately following the creation of those records, or for that period of time requested by the district attorney for that county or whose jurisdiction includes that municipality.

WARDS, DISTRICTS, REPORTING UNITS & ANNEXATIONS

Summary

Understanding wards and reporting units is essential to conducting elections. The district makeup of wards influences ballot styles, poll lists, voting equipment programming and reporting of election results. When a city or village annexes territory from a town, it is important to understand how the annexed territory will or will not fit into your existing ward plan.

Wards and Districts

The establishment of wards for purposes of elections and representation is provided in Wis. Stat. § 5.15. Wards are the building blocks from which congressional, state senate, assembly, county supervisory and aldermanic districts are created. All territory, even if unpopulated, must be contained in a ward. Wis. Stat. § 5.15(1)(b).

Within a single ward, there can be only **one** of each of the following districts: congressional, state senate, assembly and county supervisory district. Wis. Stat. § 5.15(6)(a). In cities, each ward may contain only one aldermanic district. (School district boundaries do not follow ward lines, so there may be more than one school district in a given ward.) Wis. Stat. § 5.15(2)(bm).

A “district” may be one ward or a group of wards. Congressional, state senate and assembly districts are comprised of many wards and cross municipal and county lines. County supervisory districts contain wards in a number of municipalities within the county. Aldermanic districts may be made up of several wards or just one ward within a city. Large or small, all districts are built from wards.

Reporting Units

Election results are reported by “reporting units.” A reporting unit may be one ward or a group of wards combined by resolution of the governing body. In places where the population is less than 35,000, the governing body may provide in the resolution to combine the election results for each set of combined wards. The governing body of a municipality of 35,000 or more may by resolution combine election returns of a ward with an adjacent ward if the ward has a population of 20

or less and the total population of the combined wards would not exceed that municipality's population range for wards. Wis. Stat. § 5.15(6)(b).

In order to combine two or more wards into one reporting unit, each ward must be made up of like districts. The reporting units for nonpartisan primaries and elections may differ from the reporting units for a partisan primary or general election. Clerks must be mindful of the district composition of the wards within their municipality. Wis. Stat. § 5.15(6)(b). Here is an example:

City of Smith has 10 wards, divided into four aldermanic districts. The City is also located in two Assembly Districts: Assembly District 3 and Assembly District 5 (shaded wards).

Spring Primary and Election	
Aldermanic Dist.	Ward
1	1
1	2
1	3
2	4
2	5
2	6
3	7
3	8
4	9
4	10

Fall Primary and Election		
Ward	Congressional Dist.	Assembly Dist.
1	8	5
2	8	3
3	8	3
4	8	3
5	8	5
6	8	3
7	8	3
8	8	5
9	8	5
10	8	3

For the spring nonpartisan primary or election, the wards with like districts would be combined in reporting units that represent the four aldermanic districts, as illustrated above.

- Ald. Dist. 1 = wards 1-3
- Ald. Dist. 2 = wards 4-6
- Ald. Dist. 3 = wards 7 & 8
- Ald. Dist. 4 = wards 9 & 10

However, the same reporting unit plan could not be used in a fall partisan primary or election because the wards that make up each aldermanic district are in two different assembly districts, as illustrated in the Fall Primary and Election chart.

Attempting to report by aldermanic district would result in each reporting unit containing Wards in different assembly districts. (Assembly Dist. 5 wards are shaded.)

- Aldermanic District 1 = Wards 1, 2, 3
- Aldermanic District 2 = Wards 4, 5, 6
- Aldermanic District 3 = Wards 7 & 8
- Aldermanic District 4 = Wards 9 & 10

In order for the fall reporting units to contain wards of like districts, the configuration would be:

Wards 1, 5, 8, 9 (Assembly District 5)

Wards 2, 3, 4, 6, 7, 10 (Assembly District 3)

Annexation

Annexation is the process by which a city or a village acquires unincorporated territory from a neighboring town and is governed by Wis. Stats. Ch. 66. The residents of unincorporated territory may petition the governing body of a contiguous city or village for “Direct Annexation” or “Annexation by Referendum” of the territory into the city or village. A city council or village board may also initiate annexation in several different ways, including passing an ordinance to annex a town island or territory owned by the city or village, or by passing a resolution to apply to a circuit court for approval to conduct an annexation referendum. Neighboring municipalities may also resolve a boundary dispute by a stipulation which results in property being annexed to a city or village. The result of any of these procedures is that the new territory becomes a part of the annexing municipality.

For more information regarding the various methods of annexation, please refer to the “Annexation Methods” page on the Intergovernmental Relations Division’s portion of the Wisconsin Department of Administration website.

<https://doa.wi.gov/Pages/LocalGovtsGrants/AnnexationMethods.aspx>

A completed annexation changes the boundaries of the municipality gaining territory and the municipality losing territory. Annexation may introduce new districts to the municipality gaining territory or eliminate districts in the municipality losing territory. While the focus of annexation by governing bodies is often accommodating future development on property that may be currently vacant, the clerks of both municipalities must be aware of the effect the annexation will have on elections and representation in their respective municipalities.

When Annexation Necessitates the Creation of a New Ward

As mentioned earlier, wards are the smallest units from which congressional, assembly, county supervisory and aldermanic districts are created. A single ward

may contain only one of each of these types of districts. All territory, even if unpopulated, must be contained in a ward. Wis. Stat. § 5.15(1)(b) and (6)(a). This basic principle also applies to annexation. The municipality annexing the territory may “absorb” the annexed territory into an existing, contiguous ward only if the annexed territory is in the same congressional, assembly and county supervisory districts as the ward to which it is added. *If the congressional, assembly or county supervisory districts in the annexed territory are different from the districts in the ward to which the territory is contiguous, **a new ward must be created** for the annexed territory.*¹ Wis. Stat. § 5.15(7). Territory cannot be added to an existing non-contiguous ward, regardless of district composition, except in the case of “Island Territory.”² Island territory is defined as “...territory surrounded by water, or noncontiguous territory which is separated by the territory of another municipality or by water, or both, from the major part of the municipality to which it belongs.” Wis. Stat. § 5.15(2)(f) 3.

Determining Where Annexed Electors Vote

The annexed territory becomes part of the municipality annexing the territory. If the territory is able to be absorbed into an existing ward, voters in the newly-annexed territory will vote in the same municipal district (town, city aldermanic, or village trustee in a few cases) as the other voters in the ward. If a new ward is created, the new residents vote in the municipal district to which they are assigned. Regardless of whether a new ward is required or not, newly-annexed residents will continue to vote in the same congressional, state senate and assembly district as they did before the annexation. Wis. Stat. § 5.15(7). Whether the newly-annexed residents continue to vote in the same county supervisory district depends on whether the county adopts a revised division ordinance moving the annexed

¹ Only a county has the authority to redraw its county supervisory district boundaries between decennial redistricting to move residents of one county supervisory district to another. The county board *may* adopt a revised division ordinance moving the annexed territory into the same supervisory district as the territory to which it is annexed. *See* Wis. Stat. § 59.10(3)(c).

² ...Territory within each supervisory district created by the plan shall be contiguous, except that one or more wards located within a city or village which is wholly surrounded by another city or water, or both, may be combined with one or more noncontiguous wards, or one or more wards consisting of island territory as defined in s. 5.15 (2) (f) 3. may be combined with one or more noncontiguous wards within the same municipality, to form a supervisory district. Wis. Stat. § 59.10(3)(b), 2.

territory into the same supervisory district as the ward to which it is annexed. Wis. Stat. § 59.10(3)(c).

Transferring Voters

The clerk of the municipality losing territory must photocopy each of the original Voter Registration Applications (EL-131s) and current absentee ballot applications of the voters residing in the annexed territory. Each photocopy is marked “transferred.” If the municipality has adopted the records retention periods set forth in Wis. Stat. § 7.23, the photocopied Voter Registration Applications are marked for final disposition four years from the effective date of the annexation, and the photocopied absentee ballot applications are marked for destruction 90 days (non-federal election) or 22 months (federal election) from the date of the most recent election to which the absentee ballot applications applied. If the municipality has adopted longer records retention periods than those specified in Wis. Stat. § 7.23, the Voter Registration Applications and absentee ballot applications are marked for final disposition consistent with such other specified records retention period policy.

The original forms are forwarded to the clerk of the municipality gaining the territory. When the clerk of the municipality who has lost voters forwards a valid absentee ballot request to the clerk who has gained the voters, the “gaining” clerk should honor the request for subsequent elections as requested by the voter.

The clerk of the “gaining” municipality must notify the newly-annexed voters of the location of their new polling place, ward number and voting districts.

Annexation and Polling Places

If the municipality annexing the territory is required to create a new ward because of differing districts, the municipality’s governing body may adopt a resolution, pursuant to Wis. Stat. § 5.15(6)(b), combining the new ward with existing wards for purposes of voting at a common polling place. A new polling place would not be required. If the annexed territory were absorbed into an existing ward, every voter in the newly-configured ward must vote at the same polling place because every voter in any ward has to vote at the same polling place.

Notifying Governmental Units and Other Entities of Annexation

Annexation is not a process performed in a vacuum. It is important for municipal clerks to reach out to other affected entities and keep them informed throughout the annexation process. Conversely, the municipal clerks can expect to be contacted by other agencies such as the Wisconsin Departments of Revenue (DOR), Public Instruction (DPI), Transportation (DOT) and Agriculture, Trade and Consumer Protection (DATCP).

Pursuant to Wis. Stat. § 5.05(15) and to facilitate communication to the WEC with respect to annexations, WEC staff has developed the Annexation Checklist & Ward/Voter Information Sheet (EL-100). The EL-100 includes a guide to election administration and WisVote processes required upon completion of a successful annexation. This checklist and guide will help to ensure correct processes are followed, and voters are accurately represented within WISVOTE.

The following agencies must be notified of annexations:

<u>Agency</u>	<u>Documentation</u>
WEC	Approved Annexation Ordinance and completed Annexation Checklist and Ward/Voter Information Sheet (EL-100)
WI Dept. of Administration (D.O.A.)	Required to review annexations when: <ul style="list-style-type: none">• The annexed territory is in a county with a population of 50,000 or more.• The annexation petition is either unanimous consent or one-half approval type of annexation.• Annexation, Attachment, Detachment Ordinances must contain:<ol style="list-style-type: none">1) Clerk's certification that the documents are true and correct copies of originals and bear the clerk's signature.2) Copy of the ordinance, which must include population of the property being transferred, scale map of the property showing its proximity to the current boundary of the annexing municipality, legal description of the property being transferred,

and ordinance effective date.

Contact D.O.A. Division of Intergovernmental Relations,
Municipal Boundary Review for more information.

<http://doa.wi.gov/municipalboundaryreview>

Affected School Districts Copy of approved annexation ordinance

County Register of Deeds Copy of approved annexation ordinance

Area Utilities Copy of approved annexation ordinance

Municipal clerks should always involve the municipal attorney during the annexation process, or consult the Wisconsin Towns Association or League of Wisconsin Municipalities about procedural or legal questions.

Frequently Asked Questions

1. *Why can't I make unpopulated annexed property part of the contiguous ward even if the districts differ? Nobody votes there anyway.*

Wis. Stat. § 5.15(6)(a) provides "...no ward line adjustment may cross the boundary of a congressional, assembly or supervisory district..." There is no provision in state law that exempts unpopulated territory from this requirement. Ensuring proper ward designation at the time of annexation prevents confusion if vacant land subsequently becomes populated.

2. *If the property being annexed is in the same districts as another ward in the municipality annexing the property, can I "absorb" the annexed property into that ward, even if the ward is not contiguous to the annexed property?*

With the exception of island territory,² the answer is "no." Property cannot be made part of an existing ward if it is not contiguous to that ward. Annexed territory can only be absorbed into an existing ward if:

- the territory being annexed is contiguous to the ward, and
- the districts of the annexed territory are the same as the contiguous ward.

Wis. Stat. § 5.15(1)(b) and (7).

3. *All of the districts in the annexed territory are the same as the contiguous ward, except the school district. Do I have to create a new ward if only the school districts are different?*

No. A new ward is not required to be created if the districts of the annexed territory are identical to the contiguous ward, except for differing school districts. Wis. Stat. § 5.15(6)(a).

4. *The districts in the annexed territory are the same as the contiguous ward. The population in the annexed area is currently minimal, but population growth in the area is anticipated. May a new ward be created in anticipation of that expansion?*

Yes. Even though the annexed territory may be absorbed into the contiguous ward, the governing body may choose to make the territory a new ward and aldermanic district when population growth is expected. Wis. Stat. § 5.15(1)(a)1. and (2)(f)4.

5. *The only difference between the annexed territory and the contiguous ward is the County Supervisory district. Can't I just reassign the two voters in the annexed territory to the other County Supervisory District, rather than creating a new ward?*

No. A new ward must be created. The voters in the annexed territory remain in the Supervisory District in which they voted before the annexation unless the county board of supervisors redraws county supervisory district boundary lines to include those voters. Wis. Stat. § 59.10(c).

GLOSSARY OF ELECTION TERMS

A

Absentee Ballot: a ballot cast by a registered voter who is unable or unwilling to appear at the polling place on Election Day. An absentee ballot application or a written request with all required information must be received by the clerk before issuing an absentee ballot. The ballot must be at the polling place or central count location by 8 p.m. on Election Day with the certification properly completed in order to be counted.

Absentee Ballot Application (EL-121): a request from a qualified, registered elector to receive an absentee ballot. Voters may submit a written request in lieu of this form, as long as the request includes the voter's name, residential address, mailing address (if different from residential address), indication of the elections for which the voter desires an absentee ballot, an indication of status as a military voter, permanent or temporary overseas voter (if applicable), a declaration that the voter meets the qualifications to vote, signature and date.

Absentee Voter: a registered voter who is unable or unwilling to appear at the polling place on Election Day.

Accessibility: refers to the requirement, under state and federal law, to make reasonable accommodations for elderly and disabled voters. This includes providing assistance to eliminate physical barriers to the polling place, acquiring voting equipment that enables all citizens to cast an independent and private ballot in a dignified manner and providing information that enables all citizens to fully participate in the election process. Municipalities must use polling places that are fully accessible, which includes having at least one accessible voting equipment component. Polling place accessibility is evaluated by completing a *Polling Place Accessibility Survey* for each new polling place.

Accessible Voting Equipment Component: a device approved by the Wisconsin Election Commission which provides independence and privacy to voters with disabilities.

Active Candidates: any candidate with an active registration (not terminated) on file with the filing officer. These candidates may accept contributions and make disbursements from their campaign accounts. This would include candidates required to file finance reports and those claiming the exemption from filing finance reports.

Address Change: notification given to a municipal clerk by a registered voter that they have changed their voting address or residence by submitting a new voter registration application. The municipal clerk or the municipal clerk's provider updates the WisVote to reflect the address change information provided by the voter.

Adjudicated Incompetent: refers to an individual who is disqualified from voting due to a court ruling that he or she is incapable of understanding the objective of the elective process. No individual may be denied the right to register or to vote on the basis of incompetence unless he or she has been adjudicated incompetent to vote by a court.

Administrative Rules: rules promulgated by the agency to administer and implement Wisconsin statutes.

Audit: see Post-Election Voting Equipment Audit.

Audit Trail: see Voter-Verified Paper Audit Trail.

B

Ballot Box: refers to the container or box in which electors place their voted ballots in wards that use paper ballots. The ballot box must be secured by lock or numbered seal.

Ballot Marking Device: any technology that allows voters with disabilities and other special needs to mark a ballot privately and independently, but does not tabulate votes. Currently, the only ballot marking devices approved for use in Wisconsin are the **ExpressVote, the ImageCast Evolution, ImageCast X, and ClearAccess.** This list is current as of the revision date of this manual.

Board of Election Commissioners: a special board, established in every city with a population over 500,000, that carries out all election powers and duties assigned to the municipal clerk.

C

Campaign Registration Statement (CP-1): is required for ballot access. Candidates may file a Campaign Registration Statement (CF-1) at any time, but not later than the deadline for filing nomination papers or not later than 5:00 p.m. on the fifth day after receipt of notification of nomination at a caucus.

Candidate Registration: refers to the requirement for all candidates to register by filing a Campaign Registration Statement (CF-1). All candidates, regardless of the nomination procedure used, must file a Campaign Registration Statement (CF-1) and a Declaration of Candidacy (CF-162) for ballot access.

Canvass: to examine the Election Day records for completeness and accuracy and make an official determination and certification of the outcome of the election.

Cast Ballot: a ballot marked by the voter to reflect their preference for a candidate or referendum and placed in the ballot box.

Caucus: a method that may be used by towns and villages for nominating candidates for placement on the spring election ballot. The caucus is open to the public, but only qualified electors of the municipality may nominate and vote for candidates. A person is not required to be a registered voter in order to participate in the caucus. There is no spring primary for town or village offices when the caucus system is used. However, there may still be a spring primary conducted within the town or village for state, county or school district candidates. For more information, see the *Procedures for Nomination of Candidates by Caucus* manual, available on the agency website.

Central Count: a voting system that tabulates ballots from multiple reporting units or municipalities at a central location. Voted ballots are secured in ballot containers at the polling place. Secured ballots are then transported to the central counting location for tabulation.

Central Count, Absentee: the tabulation of all absentee ballots at a location other than the polling place. The governing body must pass an ordinance to use the separate location. The Wisconsin Election Commission must also be notified when any such ordinance is passed.

Certification of Circulator: appears at the bottom of each nomination paper and election-related petition. The circulator's complete address (including municipality of residence) must be listed in the certification. After obtaining signatures of electors, the circulator must sign and date the certification, certifying that he or she personally presented the nomination paper to each signer. Without a complete and correct certification, signatures on a nomination paper or election-related petition cannot be counted.

Certificate of Election (EL-153): an official notice sent to the winning candidate. The municipal clerk must promptly issue a Certificate of Election (EL-153) to each person elected to any municipal office after the deadline for filing a petition for recount has passed, three (3) business days following the certification by the municipal board of canvassers.

Challenged Ballot: a ballot cast by an elector whose eligibility to vote has been questioned according to the challenge process. The cast ballot is marked with the voter number and "Section 6.95."

Chief Inspector: one of the election inspectors at each polling place who directs the conduct of activities assigned to the other election inspectors. In Wisconsin, every polling place is required by Wis. Stat. § 7.30(6)(b), to have a chief inspector who has been appointed by the municipal clerk (or board of election commissioners) and has been certified as a chief inspector by the Elections Commission.

Confidential Elector: an elector who is a victim of domestic abuse, sexual assault or stalking and has made a written request to the municipal clerk to not have their personal information on the poll list available to public inspection.

D

Deceased List: a list generated by the Wisconsin Department of Health Services (Vital Records) that lists all recorded deaths in Wisconsin counties for a specific period of time. This is a confidential list that is used by municipal clerks to cross-check data currently in WisVote and identifies voters that have become deceased and need to be cancelled in the WisVote system.

Declaration of Candidacy (EL-162): is required for ballot access and may be filed at any time, but not later than the deadline for filing nomination papers or not later than 5:00 p.m. on the fifth day after receipt of notification of nomination at a caucus. The Declaration of Candidacy (EL-162) is required to be notarized.

Direct Recording Electronic (DRE) Voting Equipment: a voting system that records votes by means of an electronic display provided with mechanical or electro-optical components that can be activated by the voter; that processes voter selections by means of a computer program; and that records that processed voting data in memory components.

E

Election Assistance Commission (EAC): the U.S. Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The Commission serves as a national clearinghouse and resource for information and review of procedures with respect to the administration of federal elections.

Election Day Registration (EDR): refers to the ability of electors to register at the polling place on Election Day. Electors registering on Election Day must complete the Application for Voter Registration (EL-131) and provide proof of residence.

Election Inspector (also called a **poll worker**): an election official appointed by the governing body of the municipality who conducts elections under the supervision of the chief inspector and the municipal clerk. Every election inspector must view or attend one training program every two years.

Electioneering: any activity intended to influence voting at an election. Electioneering is prohibited on public property within 100 feet of any entrance to a building containing a polling place. This prohibition does not apply to private property.

End of Line Officer: an official of the municipality (may be an election inspector, election registration official, employee of the clerk, or police officer) designated by the municipal clerk to stand at the end of the line of individuals waiting to vote, if any, at the time the polls close at 8:00 p.m., per Wis. Stat. § 7.37(13). This person should be designated before Election Day.

Election Registration Official (ERO): an election official appointed by the municipal clerk to register voters at the polling place on Election Day, in the clerk's office during in-person absentee voting or at residential care facilities during open registration.

F

Filing Officer: the official with whom ballot access and campaign finance documents for a particular office or referendum are filed.

First-Time Voter: an individual who has not voted in Wisconsin.

G

General Election: the election held in even-numbered years on the Tuesday after the first Monday in November to elect U.S. Senators, Representatives in Congress, Presidential electors, State Senators, Representatives to the Assembly, District Attorneys, State Officers other than the State Superintendent of Public Instruction and Judicial Officers, and County Officers other than Supervisors and County Executives. Wis. Stat. § 5.02(5).

H

Help America Vote Act (HAVA): the Help America Vote Act of 2002 establishes requirements for voting systems used in federal elections and contains key provisions on improving access to polling places and voting systems for persons with disabilities. This law also requires a single, central list of voters under the control of the state.

I

Ineligible Voter List: a list generated by the Wisconsin Department of Corrections that identifies convicted felons currently on probation or parole who are ineligible to vote in an election. This list is required to be at all polling places on Election Day to help election inspectors identify potential ineligible voters attempting to register on Election Day.

L

Late Registration: refers to electors who registered in the clerk's office after the close of registration--the third Wednesday before the election. These electors are issued a Certificate of Registration (EL-133) from the clerk that identifies them as being properly registered, and their names may appear on the supplemental voter list. However, if the names of late registrants do not make it on to the supplemental voter list, the registrant's Certificate of Registration (EL-133) should suffice at the polling place.

Logic and Accuracy Test: a public test of automatic tabulating equipment to ascertain that it will correctly count votes for all offices and all measures. Testing must be conducted not earlier than 10 days before Election Day, and public notice is required at least 48 hours in advance of the test. The test must be conducted by processing a test deck for each candidate and on each referendum. An errorless count must be made before the automatic tabulating equipment can be approved for use in the election.

M

Mail-In Registration: electors may register to vote by mail. The elector must complete a Voter Registration Application (EL-131) and mail the completed application to the municipal clerk's office. The application must be postmarked not later than the 20th day (third Wednesday) before the election and must include proof of residence.

Military Voter: A "military voter" includes any of the following: (1) members of a uniformed service, (2) members of the merchant marine of the United States, (3) civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States, (4) Peace Corp volunteers, and (5) spouses or voting age dependents of the aforementioned categories who are residing with or accompanying them.

Of the various types of military voters listed above, Wisconsin law distinguishes two categories of military electors:

ACTIVE – NOT AWAY: A military elector on active duty, who IS NOT ABSENT from the residence where the member is otherwise qualified to vote due to that duty. **Note**: Even though civilian employees and Peace Corps volunteers may be serving outside the U.S. are considered “ACTIVE - NOT AWAY,”

ACTIVE – AWAY: A military elector on active duty who IS ABSENT from the residence where the member is otherwise qualified to vote due to that duty. **Note**: ACTIVE – AWAY does NOT include civilian employees or Peace Corps volunteers.

MyVote Wisconsin (<http://myvote.wi.gov>): a website developed by the Wisconsin Election Commission specifically for voters. This website allows voters to look up information regarding elections and voting in Wisconsin, including sample ballots, polling place locations, and current officeholders. Additionally, the website features an online assisted voter registration process for all electors and absentee ballot request and delivery tools for military and permanent overseas electors.

N

Nomination Papers: papers circulated by or on the behalf of a candidate seeking ballot access in municipalities that do not nominate candidates by caucus. Candidates must obtain a certain number of valid signatures to qualify for ballot access. For the spring election, nomination papers may not be circulated before December 1st and must be filed before 5:00 p.m. on the first Tuesday in January before the election.

O

Observer: an individual who wishes to exercise his/her right to be present at the polling place on Election Day.

Optical Scan: voting technology employing scanners where voters mark their choice by completing an arrow or filling in an oval. During tabulation, the optical scan voting system interprets the votes using "dark mark logic," whereby the computer selects the darkest mark within a given set as the correct choice or vote. The ballot can be immediately tabulated at the polling place allowing for voters to be notified by the voting system of voting errors such as over voting.

Overseas Voter:

Permanent: a United States citizen, 18 years or older, who resided in Wisconsin before leaving the United States (or is an adult child of U.S. citizens who resided in this state prior to establishing residency abroad) and is now living outside the U.S. **with no present intent to return**, and not registered to vote in any other location. These electors may only vote for federal offices. They are required to register to vote, but do not have to provide proof of residence or photo ID.

Temporary: a United States citizen, 18 years of age or older, who is temporarily living outside of the U.S. with **an intent to return**. These electors may vote a full ballot. They are required to register to vote and must provide proof of residence and photo ID.

P

Paper Ballot: a ballot that the elector indicates their voting preference by marking an (X) in the box next to the candidate or referendum question of his/her choosing. Paper ballots are tabulated by hand.

Partisan Primary: the primary held on the 2nd Tuesday in August to nominate candidates to be voted for at the general election.

Poll List (also known as “Registration List”, “Voter List”, or “Poll Book”): a paper or electronic list containing the full name and address of each registered elector; a blank column for the entry of the serial number of the electors when they vote or the poll list number used by the municipal board of absentee ballot canvassers in canvassing absentee ballots; a space for the voter’s signature; an indication next to the name of each elector for whom proof of residence under Wis. Stat. § 6.34, is required; and a form of certificate bearing the certification of the administrator of the elections division of the board stating that the list is a true and complete registration list of the municipality or the ward or wards for which the list is prepared.

Post-Election Voting Equipment Audit: refers to the requirement set forth under Wis. Stat. § 7.08(6), that following each general election, the Wisconsin Election Commission audit the performance of each voting system in Wisconsin to determine the error rate of the system in counting valid ballots. Procedures for the audit are outlined in the “Voting Equipment” section of this manual.

Presidential Preference: an election held in conjunction with the Spring Election to express preferences for the person to be the presidential candidate for each party in a year in which the president and vice president are to be elected.

Proof of Identification (POI): refers to documents that verify the identity of an elector voting an absentee ballot by mail or in-person in the municipal clerk’s office, or at the polling place on Election Day. For a complete list of acceptable forms of proof of identification and exceptions to the law, refer to Wis. Stat. § 5.02(6m) or the “Electors” section of this manual.

Proof of Residence (POR): refers to documents that verify the current residency of voters. All voters must provide proof of residence to register to vote. Acceptable forms of proof of residence must contain a complete name, including first and last name; and a current and complete residential address, including a numbered street address, if any, and the name of a municipality. Forms that have an expiration date must be valid on Election Day in order to constitute acceptable proof of residence at that election. For a complete list of acceptable forms of proof or residence, refer to the “Electors” section of this manual.

Provider: a municipality or county that provides election administration services in conjunction with the WisVote system for a reliever municipality.

Provisional Ballot: a provisional ballot is a ballot that is marked by a voter but is not counted at the time it is cast. It is issued to a voter who is:

- 1) Unable or unwilling to provide their Wisconsin driver license or state-issued ID card number when registering to vote at the polls on Election Day
- 2) Unable or unwilling to provide acceptable Photo ID at the time of voting at the polls on Election Day.

There are no other situations when a provisional ballot is issued. The ballot is only counted on election night if the required documentation is provided to the election inspectors by 8:00 p.m. on election night. The voter has until 4:00 p.m. on the Friday following the election to provide the clerk with the required documentation for the ballot to be counted.

Q

Qualified Elector: a qualified elector is defined in § 6.02, Wis. Stats., as a U.S. citizen, 18 years of age or older, who has resided in the election district for at least 28 days before any election at which he or she offers to vote (and who is not disqualified by virtue of one or more of the impediments described in Wis. Stat. § 6.03).

R

Referendum: an election at which an advisory, validating or ratifying question is submitted to the electorate.

Registration List: see “Poll List.”

Relier: a municipality that enters into an agreement with another municipality or county to provide election administration services in conjunction with the WisVote system.

Reporting Units: a ward or combination of wards used to report election results. All wards in a reporting unit must consist of identical districts that pertain to the district seats up for election (i.e., in fall elections a reporting unit must consist of the same congressional, senate and assembly districts; in the spring, a reporting unit must consist of the same county supervisory and municipal districts).

S

Section 6.95: See “Challenged Ballot.”

Section 6.96: notation used to indicate ballots that were cast after the close of the polls pursuant to a court order. If the election inspectors are informed that a court has issued an order extending the hours that the polling place is open beyond 8:00 p.m., a voter entering the polling place after that time will also have their ballot marked with the notation “Section 6.96.”

Self-Provider: a municipality that provides its own election administration services in conjunction with the WisVote system.

Special Election, Special Primary, or Special Referendum: An election held outside the four regularly-scheduled elections. Regularly-scheduled elections are—Spring Primary held the 3rd Tuesday in February, Spring Election held the 1st Tuesday in April, Partisan Primary held the 2nd Tuesday in August and the General Election held of the Tuesday after the first Monday in November in even-numbered years.

Special Voting Deputy: an individual appointed by the municipal clerk or board of election commissioners to carry out absentee voting in certain residential care facilities and retirement homes. At least two special voting deputies must be appointed for each municipality in which one or more qualified residential care facilities or retirement homes are located. Special voting deputies must take the Oath of Special Voting Deputy (EL-155) before entering into their duties and must undergo at least one training program every two years. See the *Absentee Voting in Residential Care Facilities and Retirement Homes* manual for more information.

Spring Election: the election held on the first Tuesday in April to elect non-partisan judicial, educational, municipal, county officers and sewerage commissioners.

Spring Primary: the primary held on the 3rd Tuesday in February to nominate nonpartisan candidates to be voted for at the spring election.

Supplemental Poll List: the Supplemental Poll List is divided into two separate sections: the Pre-Printed Supplemental Poll List and the Handwritten Supplemental Poll List. Portions of the pre-printed poll list generated from WisVote contain names of all regular and confidential voters that registered during the late registration period until the poll list was printed in preparation of Election Day. The Handwritten Supplemental Poll list will contain the names of electors who registered in the municipal clerk’s office after the pre-printed supplemental poll list is printed and will also contain the names of voters who register on Election Day.

T

Tabulator: a person selected and employed by the municipal clerk to help count votes cast by paper ballot after the close of the polls. The governing body of the municipality may authorize the use of tabulators not less than 30 days before the election. Tabulators are under the direction of election inspectors. Tabulators may also be used to assist counting votes in a recount.

Temporary Overseas Elector: Wisconsin residents who are temporarily living outside the United States for work, school or other reasons and have the intent to return to Wisconsin.

Test Deck: a pre-audited group of ballots marked to record a predetermined number of valid votes for each candidate and on each referendum. The test deck is used to ensure that electronic voting equipment is reliable and accurate.

V

Voter List: see “Poll List.”

Voter Registration: the process by which an elector registers to vote. All electors, except for military absentee electors, are required to register to vote. Registration is accomplished by completing the Voter Registration Application (EL-131) at the clerk's office, by mail, or at the polling place on Election Day.

Voter Registration Application (EL-131): the form prescribed by the Wisconsin Election Commission to register an individual to vote in Wisconsin.

Voter-Verified Paper Audit Trail (VVPAT): refers to the requirement under Wis. Stat. § 5.91(18), that all direct recording electronic (DRE) voting systems produce a complete, permanent paper record showing all votes cast by the elector. The voter-verified paper audit trail (VVPAT) is considered the official ballot and is to be used in a recount of each vote cast by the elector.

W

Wisconsin Elections Commission (WEC): refers to the new agency formed on June 30, 2016 when the Government Accountability Board was split into the Wisconsin Elections Commission and Wisconsin Ethics Commission.

WisVote: a single, centralized, computerized statewide voter registration list managed by the Wisconsin Elections Commission. WisVote is used by state, county and municipal election officials to maintain a list of registered voters, manage and produce voter lists, process absentee and provisional ballots, and to manage a wide variety of other election-related activities.

Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
2	Electors	36	Deletion	Delete chart at the top of the page	Incomplete Certificate Envelopes	The chart is no longer consistent with the White injunction, and modifying it to be compliant would reduce its usefulness and increase confusion for clerks.
3	Electors	36-37	Addition	Add the following sentence to bullet point (2): For procedures on how a voter can correct an incomplete certificate envelope at the polling place, see “Voter Correction of Incomplete Absentee Certificate Envelopes” on pg. XX. Delete the remainder of this bullet point	Incomplete Certificate Envelopes	This sentence is intended to serve as a cross-reference back to the new, Commission-reviewed section on this topic that has been updated pursuant to the White and Kormanik injunctions. Final page number will be updated by staff after the language is approved. The remaining portion is deleted because the information has been included in the updated cross-referenced section.
4	Electors	36-37	Deletions	Delete 2(a), (b), (c), (d), (e), and (f)	Incomplete Certificate Envelopes	Delete these subsections because this information has been incorporated into the new, Commission-reviewed section
5	Electors	36-37	Typo/Correction	If change in line above is accepted, remaining numbering should be renumbered, if necessary.	Incomplete Certificate Envelopes	Renumbering will occur if change in line above is accepted.
6	Electors	58	Addition	Revise bullet point (9) to read as follows: If a voter, by accident or mistake, spoils or erroneously prepares their ballot, they may receive another by returning the defective ballot to an election official. Wis. Stat. § 6.80(2)(c).	Additional 7.08(3)(c) Manual Maintenance	Staff suggest revising this provision to more closely parallel the statute, and also recommend adding a statute cite so clerks are clear that this is an enumerated statutory process.
7	Electors	58	Addition	Section (9)(a) should be revised to read: The defective ballot must be returned...	Additional 7.08(3)(c) Manual Maintenance	This change was made to make it clear that a voter can only return and request a new ballot if the original ballot is defective, per the statute.
8	Electors	58	Addition	Include the following statute cite to section (9)(c): Up to three ballots may be issued to a voter. Wis. Stat. § 6.80(2)(c).	Additional 7.08(3)(c) Manual Maintenance	Staff recommend adding a statute cite so clerks are clear that this is an enumerated statutory process.
9	Electors	58	Addition	Add the following which will become section (9)(d): Note: It is the opinion of the Commission that this procedure is not affected by the ballot spoliation injunction in Kormanik v. WEC (2022CV001395).	Ballot Spoliation	Staff recommend adding this clarification because Kormanik intentionally considered the ballot spoliation process by voters at the polls on Election Day to be distinct from spoiled or damaged absentee ballots.

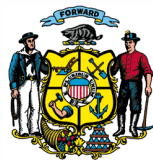
Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
10	Ballots	87	Revision	The first paragraph under "Absentee Ballots" should be revised as follows: Any registered voter in the state of Wisconsin may exercise the option to vote by absentee ballot if, for any reason, they are unable or unwilling to appear at their polling place on Election Day. Wis. Stat. § 6.85(1). For this reason, special procedures are in place to protect the elector and the integrity of the process.	Additional 7.08(3)(c) Manual Maintenance	Staff recommend this change to remove language that says absentee voting is a right (statute specifically defines it as a privilege) and further revises this paragraph to be a closer parallel to the actual statutory language.
11	Ballots	87	Addition	Add the following to the end of the second paragraph under "Absentee Ballots": The EL-125 should be attached to any container which is used to transport absentee certificate envelopes to the polling place. The certificate may be made in the form of an envelope, or the certificate may be affixed to another container, such as a box, which may be used to transport absentee certificate envelopes to the polling place. Once the container or envelope has been sealed, it cannot be opened again until the container or envelope is in the same room where votes are being cast at the polls during polling hours on Election Day, or at a meeting of the municipal board of canvassers under § 7.52.	Additional 7.08(3)(c) Manual Maintenance	Staff recommend adding this language, which is exactly what appears on the EL-125 that the Commission previously approved, so clerks are aware of how the EL-125 can be used as a carrier envelope to transport voted absentee ballots.
12	Ballots	88	Addition	If the Commission agrees, add the following to the list: ...no witness address, no witness printed name , both special voting deputies fail to sign, or no certification language.	Witness Printed Name Field	The Commission should decide whether the witness's printed name is a required field on the certificate envelope
13	Ballots	88	Addition / Deletion	Add statute cite to the end of the second sentence: ...or no certification language. Wis. Stat. § 6.88(3)(b).	Additional 7.08(3)(c) Manual Maintenance	Staff recommend adding a statute cite so clerks are clear that this is an enumerated statutory process.
14	Ballots	88	Deletion / Addition	Revise the final two sentences under "Procedure" to read: Set these aside and process them after 8 p.m. on Election Day. See also "Voter Correction of Incomplete Absentee Certificate Envelopes" on page XX for further information.	Incomplete Certificate Envelopes	This sentence is intended to serve as a cross-reference back to the new, Commission-reviewed section on this topic that has been updated pursuant to the White injunction. Final page number will be updated by staff after the language is approved. The remaining portion is deleted because the information has been included in the updated cross-referenced section.

Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
15	Ballots	88-91	Addition	The Commission has already reviewed this manual text, but a change was made by staff to make the images of the absentee certificate envelopes larger.	Additional 7.08(3)(c) Manual Maintenance	Staff enlarged the images so they're easier to see and read.
16	Ballots	93	Addition	If the Commission agrees, add the following to the list: "...the signature of either the elector or the witness is missing, or the witness's printed name or address is missing..."	Witness Printed Name Field	The Commission should decide whether the witness's printed name is a required field on the certificate envelope
17	Ballots	94	Addition	Add to 6(a)(ii) - Name of Facility. This should have already been completed by the municipal clerk.	EL 122-SP Name of Facility Field	Contingent on Commission approval, this addition is suggested to clarify that the clerk should complete this field before sending this type of ballot to the voter. A companion instruction will be added to the EA Manual, contingent on the Commission's approval of this question. Reminder that use of the EL-122SP is very limited, and is only used for residents of certified care facilities who are not served by SVDs.
18	Ballots	94	Deletion / Addition	Delete snip of old EL-122SP and replace with new version	EL 122-SP Name of Facility Field	Staff recommend replacing the old image with a snip from the new version that the Commission approved on 11/2.
19	Ballots	99-100	Deletion	Delete all of section (9) except the first part of the first sentence and replace with See "Voter Correction of Incomplete Absentee Certificate Envelopes" on pg. XX.	Incomplete Certificate Envelopes	Since this portion of the manual references a voter correcting an absentee certificate envelope, a cross-reference is needed to refer clerks back to Commission-approved guidance in the wake of the White injunction. Page number will be updated in final version of manual.
20	Ballots	100-102	Addition	Insert new section "Voter Correction of Incomplete Absentee Certificate Envelopes"	Incomplete Certificate Envelopes	This section is intended to be a Commission-approved replacement section to existing manual guidance on this topic.

Line Number	Chapter	Page	Action Taken	Material	Type of Update	Why?
21	Ballots	103	Deletion	Delete chart beneath "Absentee Voters at the Polling Place"	Ballot Spoliation	The chart is no longer consistent with the <i>Kormanik</i> injunction, and modifying it to be compliant would reduce its usefulness and increase confusion for clerks.
22	Ballots	104	Deletion / Addition	Delete all of section (b) except the first part of the first sentence and replace with See "Voter Correction of Incomplete Absentee Certificate Envelopes" on pg. XX.	Incomplete Certificate Envelopes	Since this portion of the manual references a voter correcting an absentee certificate envelope, a cross-reference is needed to refer clerks back to Commission-approved guidance in the wake of the White injunction. Page number will be updated in final version of manual.

Election Day Manual

for
Wisconsin Election Officials



Wisconsin Elections
Commission

January 2024

Table of Contents

General Information	1-9
Table of Contents	1
Introduction	5
Election Day Contacts	6
Elections Directory	7
Qualifications for Election Officials	9-16
Municipal Clerks	9
Election Inspectors	11
Chief Election Inspectors	12
Election Registration Officials (EROs)	13
Special Voting Deputies (SVDs)	13
Greeters and Tabulators	14
Oaths of Office	15
Frequently Asked Questions	15
Pre-Election Preparations	17-32
Preparing to Serve	17
Polling Place Set-Up	19
Frequently Asked Questions	30
Polling Place Checklist	32
Electors	33-76
Voter Qualifications	33
Recording Voters	38
Election Day Registration	44
Voter Registration Application (EL-131)	45
Proof of Residence	50
Electronic Proof of Residence	53
Ineligible Voter List	54
Issuing Ballots and Voting	56
Proof of Identification	56
Confidential Electors	61
License Surrender	62
Assisting Electors	62
Common Sense and Common Courtesy	64
Curbside Voting	65
Provisional Voting	66
Challenging Electors	72
Frequently Asked Questions	74

Election Day Issues	77-87
Opening the Polls	77
Observers	77
Voter Cell Phones and Photography in Polling Area	83
Media	83
Polling Place Accessibility Assessments	84
Electioneering	84
Closing the Polls	86
Frequently Asked Questions	87
Ballots	89-127
Absentee Ballots	89
Absentee Voters at the Polling Place	99
Processing Overvoted and Crossover Voted Ballots	101
Municipalities that do not allow Use of Override Function	101
Municipalities that allow Use of Override Function	103
Counting Ballots	106
Determining Voter Intent	112
Write-In Vote Scenarios	120
Documentation	129-137
Reconciling Poll Lists	129
Documenting Election Day	130
Municipal Board of Canvassers	132
Completing Forms	133
Routing Materials	134
Frequently Asked Questions	136
Post-Election Checklist	137

Appendices

Glossary of Election Terms	139-147
Sample Forms	149-187
All forms should be printed off WEC website for current version	
EL-101: Ballot Container Certificate	149
EL-102: Certificate of Rejected Absentee Ballots	150
EL-103: Used Certificate Envelopes of Absentee Electors	151
EL-104: Inspectors' Statement	153
EL-104c: Challenge Documentation	157
EL-105: General Purpose Tally Sheet	161
EL-106: Board of Canvassers Statement	163
Sample Poll List	167
EL-107: Supplemental Poll List	168

EL-107c: Poll List Certification	169
EL-108: Inspectors' Certificate of Provisional Ballots	170
EL-109: Election Observer Log	171
Election Observer Rules-at-a-Glance	173
EL-110: Order to Leave the Polling Place	175
EL-119: Ineligible Voter Information Sheet	176
EL-122: Absentee Certificate Envelope	177
EL-122sp: Special Absentee Certificate Envelope	178
EL-123: Provisional Ballot Certificate Envelope	179
EL-123r: Provisional Ballot Reporting Form	180
EL-123is: Provisional Voting Information Sheet	181
EL-131: Voter Registration Application	183
EL-133: Certificate of Registration (Sample)	185
EL-141: Application for Presidential Ballot	187
EL-148: Identification Card of Protected Elector (Sample)	189
EL-154: Official Oath	190
Picture Guide: Acceptable Photo ID	191

QUALIFICATIONS FOR ELECTION OFFICIALS

Summary

An election official is defined as “an individual who is charged with any duties relating to the conduct of an election.” Wis. Stat. § 5.02(4e). County, municipal, and school district clerks are election officials, as are election inspectors, chief inspectors, election registration officials (EROs), special voting deputies (SVDs), tabulators, and greeters. Election officials perform a very important public service by enhancing the high quality and integrity of our elections.

The sections below outline the different appointment and qualifications, duties, and training requirements for each type of election official. The final section details the requirement that all election officials take and file an oath prior to commencing his or her duties.

Municipal Clerks

Appointment and Qualifications

Municipal clerks are elected by the voters or appointed to their positions by the governing body of a given town, village, or city. For specific qualification and residency requirements, consult your municipal attorney.

Duties

The municipal clerk’s election duties include, but are not limited to, supervision of elections and voter registration in the municipality, equipping polling places, purchasing and maintaining election equipment, preparing ballots and notices, and conducting and tracking the training of other election officials. The municipal clerk is responsible for conducting the election in his or her municipality. Wis. Stat. § 7.15.

A municipal clerk may serve as an Election Registration Official and register voters at the polling place on Election Day. In addition, a municipal clerk may register voters in his or her office on Election Day if located within the same building as the polling place with a resolution of the governing body.

Training Requirement

Under Wisconsin law, each municipal clerk must attend training sponsored by the Wisconsin Elections Commission every two years. Wis. Stat. § 7.15(1m). In order to comply with this training requirement, municipal clerks must obtain six hours of training every two-year term, beginning January 1 of even-numbered years, and ending on December 31 of odd-numbered years.

All clerks must be initially certified by attending the Municipal Clerk Core Curriculum Training (MCT Core) course. Attending MCT Core certifies the clerk to conduct elections in the current term. In order to recertify for the following term, the clerk must attend at least six hours of Elections Commission-approved continuing election education during the current term. (Attendance at MCT Core counts three hours toward recertification for the following term.) Clerks always need to earn a total of six hours during the current term to recertify for the following term. EL 12.03(1), (2).

Clerks must report their election training and the number of hours to the WEC using the Municipal Clerk Recertification Reporting Form which is available on the WEC's website. Training can also be entered directly into WisVote if the clerk is a user of the WisVote system. Training not reported using the form or entered by the clerk in WisVote will not be counted towards recertification hours. Training "sponsored" by the WEC includes any training for municipal clerks that the WEC approves. This includes, but is not limited to, training given by county clerks, WEC clerk conference presentations, [live](#) or recorded webinar training sessions and election security training. A detailed list is available on the WEC website. EL 12.03 (4), (5).

Related Materials

The *Election Administration* manual details the duties and requirements for municipal clerks. This manual is available on the agency website for download or may be ordered for a small fee. The manual is issued to new municipal clerks when they have completed the Municipal Clerk Core training class. Information on recertification, as well as the Municipal Clerk Recertification Reporting Form, is also available on the agency website.

Special note regarding election inspector appointments: It is the opinion of the Commission that election inspectors may not serve at elections where they, their spouse, or immediate family member is a candidate on the ballot or under other circumstances where a candidate's success or failure to win election would affect

the election inspector financially. There may be other laws that specifically prohibit certain individuals from serving as election inspectors. Clerks are encouraged to check with their local municipal attorney if they have any questions as to whether a given individual may serve.

Election Inspectors

Appointment and Qualifications

Election inspectors, sometimes called “poll workers,” staff the polling place on Election Day. Each polling place should have seven inspectors, although the governing body may increase the number where more than one voting device is used or polling places are combined or reduce the number by resolution. Under no circumstances may there be less than three election inspectors. Wis. Stat. § 7.30(1)(a).

Election inspectors are appointed by the governing body. Nominations for election inspectors are presented to the presiding officer of the governing body in December of odd-numbered years. If lists of nominees are received from the two dominant political parties before the November 30 of odd-numbered years deadline, the election inspectors must be appointed from the lists. If no nominations, or an insufficient number of names, are submitted, the board of election commissioners shall appoint (or the mayor, president or chairperson of a municipality may nominate) qualified electors of the municipality without regard to party affiliation. The governing body appoints the inspectors for a two-year term at either a regular meeting, or at a special meeting designed for that purpose, before December 31 of odd-numbered years. Election inspector terms run from January 1 of an even-numbered year through December 31 of the subsequent odd-numbered year. Wis. Stat. § 7.30(4)(b).

Election inspectors must be able to read, write and understand the English language. An inspector may not be a candidate for any office to be voted on at an election at which they serve. Election inspectors must be qualified electors of the county served by the polling place in which they work. Wis. Stat. § 7.30(2)(c).

Duties

Election inspectors’ duties include but are not limited to setting up the polling place, preserving order, registering electors, recording electors, issuing ballots, monitoring voting equipment, counting votes, and properly completing the required forms. Wis. Stat. § 7.37.

Training Requirement

Election inspectors are required to receive training from the municipal clerk within two years of any election at which they serve. State law does not stipulate a minimum number of hours per term or curriculum. It is the responsibility of the municipal clerk to see that all election inspectors are provided with adequate training for the performance of their duties and track the training they receive each term. Wis. Stat. § 7.315(b)(1).

Chief Election Inspectors

Appointment and Qualifications

For each polling place, one election inspector who has completed the required chief inspector training is designated by the municipal clerk to act as chief inspector. Even if more than one election inspector has completed chief inspector training, only ONE election inspector per polling place should serve officially as chief inspector at a given time. It is recommended that the municipal clerk NOT serve as any type of election inspector. The municipal clerk is prohibited from serving as any type of election inspector if he or she is on the ballot. Wis. Stat. § 7.30(2)(a).

The chief inspector must be a qualified elector of the municipality served by the polling place at which they work unless no qualified candidate is available. Wis. Stat. § 7.30(2)(a), EL 11.01(1).

Duties

The chief inspector acts as liaison between the election inspectors and the municipal clerk and is in charge of the polling place on Election Day.

Training Requirement

Chief inspectors have the additional training requirement that they must attend “Baseline Chief Inspector” training to be initially certified. Attending Baseline training certifies the attendee as a chief inspector for all of the elections in the current term. To recertify for the following term, a chief inspector must complete at least six hours of Elections Commission-approved continuing election education during the current term. Attendance at Baseline training also counts toward recertification hours for the following term. Please see the agency website for a list of approved methods for accumulating hours toward recertification of chief

inspectors. The municipal clerk must track the training hours for chief inspectors in their municipality. Wis. Stat. § 7.31(4), EL 11.02.

Clerks may administer the “Chief Inspector Self-Evaluation” developed by the WEC to gauge their comprehension of election administration laws after completing the training. The results of the self-evaluation will not affect the chief inspector’s appointment or qualifications to serve. Municipal clerks may develop their own evaluation tools.

Election Registration Officials (EROs)

Appointment and Qualifications

Municipal Clerks may appoint Election Registration Officials to conduct voter registration at the polling place, at residential care facilities during the open registration period, and in the clerk’s office during in-person absentee voting. An ERO must be a qualified elector of the county for the polling place, residential care facility or clerk’s office at which they serve. However, a non-resident clerk or deputy clerk may serve as an ERO in case of a vacancy. EROs are appointed to a two-year term. ERO terms run from January 1 of an even-numbered year through December 31 of the subsequent odd-numbered year. The ERO is required to take the same training as election inspectors. If an ERO will be filling in for an election inspector (lunch, breaks, etc.), he or she must also be appointed as an election inspector.

Duties

EROs carry out the registration duties on Election Day. At particularly high-turnout elections, EROs ease the election inspectors’ workload. Wis. Stat. § 6.28(1)(a).

Training Requirement

EROs are required to receive training from the municipal clerk within two years of any election at which they serve and take an oath. It is the responsibility of the municipal clerk to see that EROs are provided with adequate training for the performance of their duties. Wis. Stat. § 7.315(4).

Special Voting Deputies (SVDs)

Appointment and Qualifications

Special Voting Deputies (SVDs) are appointed by the municipal clerk to carry out absentee voting at certain care facilities located in the municipality. Nominations for special voting deputy positions may be submitted by the two dominant political parties at the same time as election inspector nominations are submitted. If no nominations are submitted, then the municipal clerk may appoint qualified electors of the county without regard to party affiliation. At least two SVDs must be appointed, if any.

SVDs are appointed by the clerk for one election term (January 1st of an even-numbered year to December 31st of an odd-numbered year).

SVDs must be qualified electors of the county and may not currently be employed by the facility or have been employed by the facility within two years of the appointment. SVDs may not be an immediate family member of anyone currently employed by the facility or employed by the facility within two years of the appointment.

Wis. Stat. § 6.875.

Duties

SVDs conduct absentee voting at certain care facilities and qualified retirement homes. SVDs may register voters during open registration if they have also been appointed and trained as Election Registration Officials.

Training Requirement

SVDs are required to attend training every two years and must have attended training within two years of any election at which they serve. Wis. Stat. § 7.315 (1)(a).

Related Materials

The *Absentee Voting in Residential Care Facilities and Retirement Homes* manual outlines procedures and requirements for Special Voting Deputies. This manual is available on the agency website.

Greeters and Tabulators

Greeters

Each municipality may appoint one additional election inspector without regard to party affiliation to act as a greeter and substitute for other officials as necessary on Election Day. Greeters should acknowledge voters and assist them in opening the doors if needed. Additionally, greeters should serve as a resource for answering questions about the polling place and where an elector needs to go to register to vote or receive a ballot. Greeters may not participate in the canvass after the polls close. Unless acting as a substitute for an election inspector, greeters may not participate in any official election inspector duties, e.g., canvass, voter registration, issuing ballots. If acting as a substitute election inspector, greeters must be qualified electors of the county for the polling place at which they serve. Wis. Stat. § 7.30(1)(b).

Tabulators

Not less than 30 days before an election, the governing body may, by resolution, authorize the municipal clerk to select and employ tabulators. Tabulators aid election inspectors in counting and tallying votes at the end of the night. Tabulators are to assist and be under the direction of the election inspectors after the polls close. There is no residency requirement for tabulators. Wis. Stat. § 7.30(3)(b).

Oaths of Office

1. All election officials are required to take and file an oath.
2. Municipal clerks administer the oath of office at the time of appointment or at a training session to election inspectors (including chief inspectors), special voting deputies, and election registration officials.
3. The oath must be filed before the commencement of the official's duties.
4. The oath is valid for the entire term of appointment.
5. Substitute inspectors may be given the oath by another inspector, preferably the chief inspector, on Election Day at the polling place.
6. The following oaths may be obtained from the agency website or directly from the Elections Division.

- a. *Official Oath (EL-154)*: Filed by Election Inspectors, Chief Inspectors and Election Registration Officials, Greeters and Tabulators.
- b. *Oath of Special Voting Deputy (EL-155)*: Filed by Special Voting Deputies.

Wis. Stat. § 7.30 (5).

Frequently Asked Questions

1. *Are regular election inspectors required to take a certain number of training hours per two-year term?*

Regular election inspectors (poll workers), election registration officials and special voting deputies are required to receive some type of election training every two years, but state law does not prescribe the curriculum or number of hours.

2. *Who tracks the training taken by municipal clerks and local election officials?*

Municipal clerks are required to report their election training to the WEC each term for tracking purposes. Clerks can report their training by submitting the prescribed form available on the Commission website or by entering the training into WisVote if the clerk is a self-provider of the system. Municipal clerks track the training taken by their local election officials, including chief inspectors, poll workers, special voting deputies and election registration officials.

PRE-ELECTION PREPARATIONS

Preparing to Serve

Your job as an election official is an important responsibility. Being familiar with election laws and procedures before Election Day will ensure that you feel comfortable and confident serving at the polling place. There are a number of activities you can engage in to increase your knowledge and help prepare you for Election Day.

1. Attend a training session.
 - a. All election inspectors, election registration officials, special voting deputies, and election registration officials must attend or view a training session at least once every two years.
 - b. You may not serve unless you complete training within two years of an election.
 - c. The municipal clerk, county clerk, or the Wisconsin Elections Commission staff provides training sessions. If no training sessions are scheduled in your area, request one from your municipal clerk.
 - d. The municipal clerk is responsible for maintaining training records for election officials.

Wis. Stat. § 7.315 (b)(1).

Note: Chief inspectors are required to attend the Baseline Chief Inspector training class in order to be initially certified. Attending Baseline training certifies the attendee as a chief inspector for the current term. In order to recertify for the following term, a chief inspector must attend at least six hours of Wisconsin Elections Commission-approved continuing election education during the current term. (Attendance at Baseline training also counts toward recertification for the following term.) Wis. Stat. § 7.31(4).

For more information about election official training requirements, see the “*Qualifications for Election Officials*” chapter of this manual.

2. Read the Election Day Manual.

- a. Election inspectors should review this manual along with relevant election statutes before Election Day. Check the WEC website to ensure that you have the most recent version of the manual.
- b. A copy of the Wisconsin election statutes, Chapters 5-12, can be obtained from the municipal clerk or online from the WEC website.
- c. If you will be responsible for registering voters on Election Day, you should review the Electors section of the Election Day manual. Manuals can be obtained from the municipal clerk, downloaded from the WEC website or ordered from the agency.

3. Consult with the municipal clerk.

- a. Determine how many election inspectors are needed.

The municipal clerk or the chief inspector should inform you of any important changes that will affect the election and your job. You should discuss how many election inspectors will be working on Election Day and, if shifts will be used, who will be working and at what time during the day. There must always be an odd number of election inspectors working. Wis. Stat. § 7.30(1)(a).

The municipal clerk should identify any election inspectors appointed by one of the two major political parties. The chief inspector must ensure that any Election Day tasks which require completion by two election inspectors are represented by each party, whenever possible. Wis. Stat. § 7.30(2)(a).

- b. Determine the need for a greeter.

You should determine if there will be an additional person serving as a greeter on Election Day. Greeters can be appointed regardless of party affiliation and may temporarily serve as an election inspector to cover breaks or unexpected absences; however, greeters may not count votes or participate in the canvass after the polls close.

Note: A greeter is not included in the total number of election officials. Wis. Stat. § 7.30(1)(b).

c. Designate an End of Line Officer.

The municipal clerk should designate an official of the municipality (may be an election inspector, election registration official, employee of the clerk, or police officer) to stand at the end of the line of individuals waiting to vote, if any, at the time the polls close at 8:00 p.m. This person should be designated before Election Day. Wis. Stat. § 7.37(13).

d. Review contingency plans.

The municipal clerk should have a contingency plan in the event of an emergency situation. You, as an election inspector, should be familiar with that plan and ask your municipal clerk how he or she would like you to proceed in the event of an emergency. By identifying and planning a response to some common emergency scenarios (fire, power outage, etc.), the election inspectors will be better equipped to handle the uncertainty caused by emergency situations. If a contingency plan has not been shared with you, ask your municipal clerk. Wis. Stat. § 7.37(1).

4. Visit the polling place.

- a. Familiarize yourself with the location. Be sure you know how to unlock doors and turn on lights if necessary.
- b. Determine how the polling place will be set up. Decide where the check-in tables, registration tables, voting booths, ballot boxes, required postings, etc. will go prior to Election Day.

5. Familiarize yourself with the ballot and voting equipment.

- a. Know who the candidates are and which offices and referenda will appear on the ballot.
- b. Be sure you are familiar with the voting equipment that will be used on Election Day. You should be able to instruct a voter how to cast a ballot on the machine. Wis. Stat. § 5.79.

6. Arrive at the polling place early.

- a. Plan to arrive at least 30 minutes before the polls open at 7:00 a.m. You will need this time to ensure that everything is ready before voters begin to appear.

- b. The municipal clerk may have specific instructions on the required time for arriving at the polling place on Election Day.

Polling Place Set-Up

Before the first voter enters the polling place, election inspectors should take the time to make sure that the polling place is set up correctly and that they have all the necessary supplies. The way a polling place is set up affects how easy it will be for you to do your job and for voters to cast their ballots. The proper set up is one of the most important elements to ensure that Election Day will run as smoothly as possible. Wis. Stat. § 5.35.

Special Note Regarding Ability of School Districts to Close Certain Polling Places

Inspectors may find themselves conducting an election for people who do not ordinarily vote at their polling place.

If no federal, state, county, municipal or judicial election is held on a day when a school district is conducting an election or referendum, the school district may choose to close a polling place and direct the voters from that polling place to vote at another polling place in the school district. This commonly happens at spring primaries but could also occur when the school district conducts a special election or referendum. School districts use this authority in order to save on the cost of poll workers and polling places.

If a school district closes a polling place, the inspectors at the “host” polling place (the polling place at which the displaced voters have been directed to vote) conduct the school district election for their usual voters as well as for the “guests” from the closed polling place.

The election is conducted just as if the closed polling place was open: Separate poll books, separate tally sheets and inspectors’ statements and separate results. The “host” inspectors are able to register “guests” even if they are from another municipality. The “host” inspectors deliver the materials for both polling places to the municipal clerk as usual. If the closed polling place is in another municipality, the municipal clerk will deliver the materials pertaining to the closed polling place to the appropriate municipal clerk.

Wis. Stat. § 120.06(9).

Layout

Prior to Election Day, the chief inspector should consult with the municipal clerk to discuss the layout of the polling place. It is important to be familiar with the flow of traffic and take a critical look at the polling place to make sure it will be accessible for all voters, including those with disabilities.

When planning the layout of the polling place, consider the following:

1. Voting Booths

- a. Every polling location is required to have at least one voting booth for every 200 electors who voted in the last general election.
- b. One booth at every polling place must have an entrance that is at least 30 inches wide with a writing surface between 28 and 34 inches high to meet Americans with Disabilities Act (ADA) standards.
- c. Election inspectors must be trained to set up and use electronic voting equipment, including accessible voting components.
- d. Booths are required to be placed apart from other activities such as checking in and registering.
- e. All booths must be placed together in the same vicinity, including the booth(s) containing the accessible voting equipment.
- f. Booths must have a surface on which to write and be sufficiently enclosed to ensure privacy for the elector. The accessible booth must also be sufficiently enclosed to ensure privacy for the elector. Consider using a privacy shield or position the booth/equipment so that it is facing away from the view of the room.
- g. Appropriate marking devices (pencils, pens, etc.) for use with the voting equipment, if any, must be provided.

Wis. Stats. §§ 5.35(2), 5.78.

2. Ballot Boxes

- a. If paper ballots are used, one ballot box is required for each type of ballot used in the election.

- b. If direct recording electronic (DRE) equipment is solely used at the polling place, a single ballot box for hand-count paper ballots (such as absentee, assisted, and challenged ballots) is required.
- c. There must be a supply of paper ballots available at the polling place in case of challenges to a voter's eligibility, provisional voting, if a voter requests a paper ballot, or if the electronic voting equipment should malfunction.
- d. If electors from more than one reporting unit use the same polling place, there should be separate ballot boxes provided for each reporting unit.
- e. The ballot boxes should be clearly labeled to indicate which ballots are to be deposited.
- f. There should be a suitable lock and key for each ballot box.

Wis. Stats. §§ 5.35(3), 5.40(4), 5.40(5), 5.15(6)(b).

3. National Flag

The American flag must be displayed on an outside pole or in the voting area during all hours the polling place is open. Wis. Stat. § 5.35(1).

4. Tables and Chairs

- a. It is recommended that there be a separate table solely for Election Day registration away from the area where registered voters check-in to help regulate the flow of traffic.
- b. You should ensure that there are enough tables and chairs for election inspectors to conduct their work.
- c. Additional chairs should be available for voters and observers to use as needed.

5. Signs

- a. Traffic in the polling place can be improved by posting "Enter," "Exit," and "Voter Registration" signs. In addition, signs marking the accessible path should be prominently posted and easy to read from the parking lot.

- b. Directions that instruct voters to state their name and address, provide proof of identification and sign the poll book can make the check-in process more efficient.
6. A Designated Observer Area

Observers are individuals who wish to exercise their right to be present at the polling place on Election Day. Anyone, other than a candidate, has a right to be at a polling place to observe the conduct of the election. Wisconsin law does not prohibit non-U.S. citizens or foreign nationals from observing the election process.

- a. A designated observation area at the polling place should permit observers to readily observe all public aspects of the voting process. When physically feasible, the observation area should be no less than 3 feet, or more than 8 feet from the table where electors are announcing their name and address, signing the poll list and being issued a voter number and the table where Election Day registration is occurring. Observers should be placed so that they can hear the interactions of voters with election officials, but not so that they interfere with the voting process.
- b. If necessary, additional observer areas may be established in other areas of the polling place to allow for observation of other public aspects of the voting process (challenges, ballot box security, etc.).

Wis. Stat. § 7.41(1).

Polling Place Accessibility

All polling places must be accessible to electors with disabilities. -Wis. Stat. §5.25(4)(a). It is important to examine the entire polling place, from the parking lot to the voting booth, to assess any areas where temporary fixes may be needed. Your municipal clerk should have reviewed the polling place for accessibility prior to Election Day and will have submitted a Polling Place Accessibility Self-Assessment (EL-501) to the Wisconsin Elections Commission indicating compliance with accessibility standards.

A Polling Place Accessibility Toolkit, which includes a Polling Place Set-Up Guide, an Election Day Accessibility checklist, and a Quick Fix Guide among other resources, is available on the WEC website. The WEC highly recommends using this toolkit or reviewing the Polling Place Accessibility Self-Assessment

completed by the municipal clerk to ensure accessibility on Election Day. You should consult with your municipal clerk if you are unsure if the polling place is accessible.

Some common problems to look for:

1. If there is an alternate entrance used by voters with disabilities, the pathway to the accessible entrance should be clearly marked and a sign posted at the primary entrance directing voters with disabilities to the accessible entrance. Even if there is only one entrance to the polling place, it must be marked with the universal symbol of accessibility.
2. Be sure that if off-street parking is available at the polling location, that any accessible parking spots are marked with appropriate signs and access aisles are clearly designated.
3. Some doors are too heavy to be opened by the elderly or voters with disabilities. If the accessible entrance requires 8.5 lbs. of force or more to open, it should have accessible features like an automatic opener, power assist, or doorbell. If it is not possible to install an accessible feature, a greeter or election inspector should be positioned by the door to assist electors entering the polling place.
4. A voting booth or table that is accessible to electors in wheelchairs must be set up. This booth must have an entrance that is at least 30 inches wide with a writing surface between 28 and 34 inches high in order to meet ADA standards. A wheelchair accessible table may meet this requirement if supplemented with a privacy screen.
5. Accessible voting equipment must be set up in a manner ensuring privacy for voters choosing to use the equipment.

Wis. Stats. §§ 5.36, 5.25(4)(a), 5.40(1).

Voting Equipment

The State of Wisconsin uses three types of voting systems: (1) hand-count paper ballots, (2) optical scan systems, and (3) direct recording electronic (DRE) systems (these are typically touchscreen devices that tabulate votes on a paper roll). Many municipalities use a combination of these systems.

1. Municipalities with a population of 7,500 or more are required to use electronic voting equipment in every ward in every election.

- a. Electronic voting equipment, including optical scan and DRE, is equipment that tabulates votes electronically.
- b. Ballot marking devices, such as the ExpressVote, the ImageCast Evolution, ImageCast X, and ClearAccess, do not tabulate votes. Therefore, they are not considered electronic voting equipment. This list is current as of the revision date of this manual.

Wis. Stat. §5.40(1).

2. All polling places must be equipped with at least one accessible voting equipment component to permit all voters to vote privately and independently. Any voter, regardless of ability, may use this equipment.

HAVA §301(a)(3)(A).

3. Election inspectors should be trained on how to use the voting equipment. There are fact sheets available on the WEC website for each kind of accessible voting equipment certified in the state.
 - a. Know how to turn on and turn off the equipment.
 - b. Be able to explain to an elector how to cast a ballot on the equipment.
 - c. Be able to properly load and unload the voter-verified paper audit trail (VVPAT), also known as the paper roll, on electronic equipment.
 - d. Know who to call if you experience problems with the equipment. WEC staff can't troubleshoot equipment questions. Inspectors should contact their municipal clerk or respective voting equipment vendor to address those issues.

4. Election Day Security Procedures

- a. If the municipality uses electronic voting equipment, the municipal clerk should record the serial numbers from the tamper evident seals on the Inspectors' Statement (EL-104).
- b. The chief inspector compares the serial numbers recorded on the inspectors' statement to the serial numbers on the security tags on the machine at the beginning and end of the day. The chief inspector should initial in the spaces provided to confirm that the checks were completed and the seals were intact.

- c. The municipal clerk may have additional security procedures for the election inspectors to follow.
 - d. The municipal clerk should be contacted in the event of a security breach.
5. Election Day Zero-Count Requirement
- a. Before any ballots on Election Day are cast on the electronic voting equipment, the election officials shall witness a test of the tabulation component by engaging the printing mechanism and securing a printed result showing a zero count for every candidate and referendum.
 - b. The zero-count printout should not be separated from the remainder of the roll. Leave the printout attached to the roll.

Wis. Stat. §5.84(2).

Polling Place Supplies & Materials

A *Polling Place Checklist* is provided at the end of this section. This checklist is an excellent tool for ensuring that all of the necessary supplies and materials are at the polling place on Election Day.

1. Election Day Forms and Supplies

Election inspectors should ensure that the municipal clerk has provided all of the required forms and supplies.

- a. Ballots and Sample Ballots: Two sample ballots for each ballot style should be posted at the polling place. Blank ballots should be kept secure and in the possession of election inspectors at all times.
- b. Ballot Bags (EL-101): A ballot bag/container should be provided for each ballot style.
 - i. For example, for municipalities that hand-count paper ballots, there should be (per reporting unit) one ballot bag for county, state, and federal ballots; one ballot bag for municipal ballots; one ballot bag for school district ballots; and one ballot bag for each referenda and special district ballot.

- ii. Where optical scan or direct recording electronic (DRE) ballots are used, only one ballot bag (per reporting unit) is necessary because all offices and referenda are on a single ballot style.

Wis. Stat. § 7.51(3)(a), (b).

- c. Envelope for Rejected Certificate Absentee Ballot Envelopes (EL-102): Election officials place all rejected Absentee Ballot Certificate Envelopes (EL-122) in this brown carrier envelope. It is completed by the election inspectors and returned to the clerk who provided it for that election. Wis. Stat. § 6.88(3)(b).
- d. Envelope for Used Certificate Absentee Ballot Envelopes (EL-103): Election inspectors place all used Absentee Ballot Certificate Envelopes (EL-122) in this white carrier envelope after determining they have been properly executed and after removing the absentee ballots. The used envelope is returned to the clerk who provided it for that election. Wis. Stat. § 7.51(3)(d).
- e. Inspectors' Statement (EL-104): All challenged, spoiled, damaged, defective, remade, objected to and rejected ballots must be documented using this form. This statement should provide an accurate account of the election inspectors' decisions concerning all ballot irregularities and describe any other occurrences or irregularities at the polling place (that may or may not affect the validity of the election). Wis. Stat. § 7.51(4)(a).
- f. General Purpose Tally Sheet (EL-105): Election inspectors or tabulators use this form for counting hand-count paper ballots and recording the number of votes cast for each candidate. This includes write-in votes, or in the case of a referendum, the yes and no votes. Where optical scan ballots are used, a write-in tally sheet is used to count and record write-in votes. Wis. Stat. § 7.51(4).
- g. Municipal Canvass Report (EL-106): The municipal board of canvassers completes this report, certifies the municipal election results, and officially determines the winners. In municipalities with one ward or where all wards vote at a single polling place and results are combined, the election inspectors constitute the municipal board of canvassers for that election. Wis. Stat. § 7.53(1).

- h. Poll List and Supplemental Poll List (EL-107): (also known as the poll list, voter list or the registration list): The poll book contains the names and addresses of registered voters in a ward or combination of wards. Each ward or combination of wards will have two poll lists, which must be maintained identically on Election Day. Election inspectors use poll lists to ensure only registered voters cast a ballot, and to capture certain information about each registered voter who receives a ballot. Wis. Stats. §§ 6.36(2)(a), 6.79.

Note: Voters need to sign only one copy of the poll list. All voters should sign the same poll list.

- i. Registered Write-In Candidate List: A list of registered write-in candidates for federal, state and local offices. Candidates must register by 12:00 p.m. the Friday before the election to be considered registered write-in candidates. The municipal clerk should supply elections inspectors with a list of registered write-in candidates on Election Day. The list may be given to any elector who inquires about the list but may not be posted.
- j. Ineligible Voter List: The list of felons in a county or municipality that are currently under the Department of Correction's supervision. These individuals are on probation, parole, or extended supervision.
- k. Inspectors' Certificate of Provisional Ballots (EL-108): Election inspectors use this envelope to secure any provisional ballots voted on Election Day. Wis. Stat. § 6.97(3)(a).
- l. Election Observer Form (EL-109): Individuals who wish to observe the conduct of the election and/or election administration event should legibly list his/her full name, street address and municipality, and the name of the organization or candidate the observer represents, if any. The observer shall also sign this form acknowledging the observer understands the rules and will abide by them. Additionally, an observer must present photo identification to an election inspector. Any type of photo identification is acceptable so long as it features a photo of the observer and the observer's name. An election official shall verify by marking on the EL-109 that the observer's name listed on the EL-109 matches the photo identification. If the information on the photo identification does not match the information on the observer log, the individual shall not be permitted to serve as an observer. Wis. Stat. § 7.41(1).

- m. Order to Leave Polling Place (EL-110): In the event that a chief inspector orders an observer to leave a polling place, the chief inspector shall provide this written order to the observer which includes the reason for the order and the signatures of the chief inspector as well as another election inspector representing the opposite political party, if available. The chief inspector shall have sole authority to order the removal of an observer, but the other election inspector may note his or her concurrence or disagreement with the decision on the Inspectors' Statement (EL-104). Wis. Stat § 7.41(3).
 - n. Election Observers Rules-At-A-Glance: This brochure is available from the agency website. It is a summary of the rules for election observers and a copy should be provided to all individuals who wish to observe the conduct of the election and/or election administration event. Wis. Stat. § 7.41(5).
 - o. Provisional Ballot Certificate Envelopes (EL-123): Each provisional ballot is placed in a separate provisional ballot certificate envelope. Every provisional voter must complete the certification and seal his or her ballot inside the envelope. Wis. Stat. § 6.97 (3)(b).
 - p. Provisional Ballot Reporting Form (EL-123r): Election inspectors use this form to record the details of each provisional ballot issued on Election Day. Wis. Stat. § 6.97(3)(a).
 - q. Absentee Ballot Log (EL-124): This form should be used to track absentee ballots at the polling place to indicate whether the vote was counted. Wis. Stat. § 6.88(1), (3)(b).
 - r. Presidential Only Ballot Forms: Presidential elections require two additional forms. These forms are used for individuals who moved to Wisconsin less than 28 days before a presidential election. These individuals are eligible to vote in the presidential contest only.
 - i. Authorization to Cancel Registration - New Wisconsin Resident (EL-139)
 - ii. Application for Presidential Ballot (EL-141)
- Wis. Stat. § 6.18.

2. Voter Information and Notices

All of the notices, statements, and postings should be placed together in the polling place so that they can be easily read by electors entering the polling place or waiting in line to vote.

- a. Notices: Relevant portions of the voting instructions from the Type B notice, the text of the Type C notice for each referendum if applicable, and the Type D notice of polling place hours must be posted.
- b. Sample Ballots: Two copies of each type of ballot.
- c. Statement of Election Fraud (EL-111): This statement sets out the laws and applicable penalties for election fraud.
- d. Notice of Crossover Voting (EL-112): This is a statement explaining the effect of crossover voting at a partisan primary and is posted at a partisan primary only. The EL-112m should be used in municipalities that use optical scan voting equipment.
- e. Notice of the Effect of Overvoting (EL-113): This is a statement explaining the effect of overvoting in a particular contest and how to obtain a replacement ballot if a voter makes a mistake.
- f. Effect of Crossover Voting at a Presidential Preference Primary (EL-114): This notice informs voters at a Presidential Preference Primary that they may only vote once and for a candidate in only one political party.
- g. Voter Qualification Poster (EL-115): This notice explains the requirements for an individual to be a qualified elector.
- h. Voting Rights (EL-117): This notice provides general information on voting rights protected by federal law.
- i. Contact Information (EL-118): This posting provides electors with contact information if they have concerns with the voting process. The blank sections should be filled in before Election Day by the municipal clerk.
- j. Ward Maps & Street Directory: A ward map clearly indicating all the wards in the municipality served by that polling place must be prominently displayed. A street directory that indicates which streets are in each ward along with the location of the polling place in each ward is recommended.

Wis. Stats. §§ 5.35(6), 10.01, 10.02, 10.06.

3. Additional Materials

- a. Provisional Voting Information Sheets: Information sheets instructing voters who vote provisionally the procedure they need to follow in order to have his or her vote counted.
- b. Ineligible Voter Information Sheets: Information sheets instructing voters whose names appear on the Ineligible Voter List of the procedure they need to follow if they wish to cast a ballot.
- c. Writing Instruments: An adequate supply of writing instruments should be provided. Make sure any felt tip markers secured to the voting booth are in working order, and adequate for write-in voting. If your polling place uses optical scan machines, be sure you have a supply of marking devices that will work with your equipment.
- d. Election Laws: A copy of Chapters 5 through 12 of the Wisconsin State Statutes should be present at all polling locations.
- e. Election Day Manual: A copy of this Election Day manual should be available for quick reference by poll workers. A copy of the manual can be downloaded from the WEC website or ordered from the agency.

Wis. Stat. § 5.35(6).

Frequently Asked Questions

1. *What if the optical scan machine or the direct recording electronic (DRE) machine isn't working?*

The municipal clerk should have provided you with the necessary contact information to troubleshoot equipment problems. A supply of paper ballots should be available in the event of equipment malfunction. Any unusual incidents with the voting equipment should be noted on the Inspectors' Statement (EL-104).

2. *What if the polling place is not accessible in some way for voters with disabilities?*

You should attempt to make the polling place as accessible as possible. The municipal clerk should be contacted and a notation should be made on the Inspectors' Statement (EL-104). If a voter is unable to enter the polling place due to their disability, you may administer a curbside vote. The municipal clerk should remedy the problem before the next election. Wis. Stats. §§ 5.36, 5.25(4)(a), 5.40(1).

3. What can I tell voters about a referendum?

Voters asking about referenda should be referred to the posted copy of the Type C notice containing the text of the referendum and an explanatory statement of the effect of a “yes” or “no” vote.

4. Should I post the names of write-in candidates?

No. Names of write-in candidates are not posted at the polling place. If asked by voters about write-in candidates, the inspectors may give voters a list of registered write-in candidates.

5. What is a voter-verified paper audit trail?

Wis. Stat. § 5.91(18), requires that all direct recording electronic (DRE) voting systems produce a complete, permanent paper record showing all votes cast by the elector. The voter-verified paper audit trail (VVPAT) is considered the official ballot and is to be used in a recount of each vote cast by the elector.

ELECTORS

Summary

Interactions with electors, both positive and negative, influence the public's confidence in the ability of election officials to administer elections in Wisconsin fairly. As an election inspector, it is your responsibility to ensure that every eligible elector can participate in the democratic process.

Voter Qualifications

In order to register to vote, an individual must:

1. Be a U.S. citizen
2. Be age 18 or older on or before Election Day
3. Have resided in an election district or ward for 28 consecutive days with no present intent to move, before any election where the citizen offers to vote.

Wis. Stat. § 6.02(1).

Residency

An individual's residency in a ward or municipality is determined by the individual's physical presence and present intent to reside in that location for voting purposes. In order to initially claim residency, a voter must establish a physical presence in a location with the intent to make that location his or her residence for voting purposes.

1. Temporary Presence/Absence
 - a. Residency is not lost when a person leaves "home" and goes to another location temporarily with intent to return "home". Persons who have temporarily left their homes are still residents of the "home" municipality despite their temporary absence. Wis. Stat. § 6.10(5).
 - b. Residency cannot be established in any ward, town, village, or city in this state while living there for temporary purposes only. Wis. Stat. § 6.10(8).

2. Intent to Return

- a. Once residency is established, a person may be temporarily absent and still be considered a resident, as long as he or she intends to return. Wis. Stat. § 6.10(5).
- b. A person may end their residency by leaving their residence and doing something that establishes they no longer intend to reside at their old residence (e.g., registers to vote at another address). Such a person cannot continue to vote at his or her previous residence without re-establishing residency. Wis. Stat. § 6.10(10).

3. Student Status

- a. Student status is not to be used as a factor in determining residence. A student may choose to establish residency in the municipality where he or she lives to attend school, or the student may consider his or her stay in the municipality to be “temporary” and intend to return to his or her former municipality. Wis. Stat. § 6.10(4), (12).
- b. If a student registers to vote in the municipality where he or she attends school, the student loses his or her residency in his or her prior municipality and must re-establish residency in the prior municipality before he or she would be eligible to register to vote there in another election. Wis. Stat. § 6.36(1)(d).

4. “Part-time” Residents

- a. A person may only vote in one municipality each election. In order to vote in a municipality, a person with part-time residency in a municipality must intend that his or her physical presence in the ward or municipality establishes residence for voting purposes. Wis. Stat. § 6.10 (1).
- a. Merely owning property in a municipality is not sufficient to claim residency. A person must have established a physical presence paired with the intent to make that address their permanent residence.

5. New Residents

- a. A person who has not resided in any ward in Wisconsin for at least 28 days should be advised to check with their former state of residence to inquire as to any voting options they may have as former residents of that state. Alternatively, in Presidential elections, new residents of Wisconsin may vote a Presidential-only ballot by submitting a completed Application for Presidential Ballot (EL-141) to either the municipal clerk in the 27 days before the election or to the election inspectors at the polling place for their new address. Wis. Stat. § 6.15(1), (2)(a).
 - i. The voter must also complete an Authorization to Cancel Registration (EL-139), which the clerk must send to the proper election official for the new resident's former municipality.
 - ii. Proof of Residence is required.
 - iii. No voter registration (EL-131) is required.
 - iv. Proof of identification is required.
 - v. The EL-141 may be submitted no earlier than 27 days before the election and shall be received not later than 5:00 p.m. on the day before the election when delivered to the clerk's office.
 - vi. The EL-141 may also be submitted on Election Day at the polling place.

Wis. Stat. § 6.15(2)(a), (b).

6. Former Residents

- a. If ineligible to qualify as an elector in the state to which he or she has moved, any former Wisconsin resident may vote a Presidential-only absentee ballot in their former municipality and ward of residence in any presidential election occurring within 24 months of leaving Wisconsin by submitting a completed [Application for Absentee Presidential Ballot \(EL-140\)](#) to their former municipal clerk.

- i. No voter registration (EL-131) is required.
- ii. No proof of residence is required.
- iii. Proof of identification is required.
- iv. There is no fixed deadline for receipt of the EL-140. The EL-140 must simply be received “in sufficient time for a ballot to be mailed and returned prior to the election.”

Wis. Stat. §6.15(2).

Other Common Residency Scenarios

Voter Situation	Voting Location
Has moved from one ward to another in the same municipality at least 28 consecutive days before an election	In the new ward. Wis. Stat. § 6.02(2).
Has moved from one municipality to another at least 28 consecutive days before an election	In the new municipality. Wis. Stat. § 6.02(2).
Has moved from one ward to another in the same municipality less than 28 consecutive days before an election	In the old ward. Wis. Stat. § 6.10(3).
Has moved from one municipality to another less than 28 consecutive days before an election	In the old municipality. Wis. Stat. § 6.10(3).
Has moved to a different ward, or state temporarily, with intent to return	In the ward or municipality from which they moved. Wis. Stat. § 6.10(8).
Lives in one ward or municipality and conducts business in another	In the ward or municipality where the individual lives. Wis. Stat. § 6.10(6).
Lives in a public or private facility, such as a federal or state institution, county home or hospital, nursing home or group home	In the municipality where the facility is located <i>or</i> in the municipality of residence before entering the facility. Wis. Stat. § 6.10(7m).

Voter Situation	Voting Location
Is on active duty as a member of the armed forces serving in the U.S. or overseas	In the municipality or ward of residence before entering the armed services. Wis. Stats. §§ 6.10(6) and 6.24(2).
Is the spouse or dependent of a member of the armed forces	In the ward or municipality of residence of the military elector <i>or</i> if a Wisconsin resident, municipality, or ward of residence before entering the armed services. Wis. Stat. § 6.10(13).
Is a civilian overseas employee of the U.S. Government	In the municipality or ward of residence before entry into federal employment. Wis. Stat. § 6.22(2)(a).
Is a U.S. Citizen living outside the United States with no present intent to return	In the municipality or ward where they last resided or where their parent last resided before leaving the United States. Wis. Stat. § 6.24(2).

Disqualification of Electors

The following persons shall not be allowed to vote in any election:

1. Any person convicted of treason, felony, or bribery that has not been pardoned or completed the terms of his or her sentence including any term of probation, parole, or extended supervision. Wis. Stat. § 6.03(1)(b).
2. A person who has been determined by a court to be incapable of understanding the objective of the elective process or who is under guardianship, unless the court has determined that the person under guardianship is competent to exercise the right to vote. Wis. Stat. § 6.03(1)(a).
 - a. The court order granting guardianship should specifically declare if the person is incompetent to exercise the right to vote. If the order does not include a specific finding of incompetency, the person retains the right to vote.

3. Anyone who has made or become interested, directly, or indirectly, in any bet or wager depending upon the result of the election. Wis. Stat. § 6.03(2).

Recording Voters

Properly recording voters is essential to maintain the integrity of the electoral process. Two election inspectors maintain two duplicate original poll lists, also known as poll books, voter lists or registration lists, for each reporting unit. A reporting unit is a ward or combination of wards that reflect the way election results are transmitted to school districts, the county, and the Wisconsin Elections Commission. When the polls close, the poll lists will reflect the activity at the polling place on Election Day. It is essential that the election inspectors carefully record the required information on the poll lists.

Poll Lists

The poll lists contain the names and addresses of registered voters in a reporting unit. The municipal clerk will provide poll lists to each polling place. These poll lists have been generated from WisVote, which is Wisconsin's statewide database for tracking voter registrations. Wis. Stat. § 6.36.

If a municipality uses paper poll lists, each ward or combination of wards will have two poll lists, which must be maintained identically on Election Day. **If the municipality uses e-pollbooks, the machine maintains two copies, which may be maintained by a single poll worker.** Election inspectors use poll lists to ensure only registered voters cast a ballot and to capture certain information about each registered voter who receives a ballot. Wis. Stat. § 6.79(1m).

Each elector must sign the poll list before receiving a ballot. Only one of the paper poll lists should contain the signature of each voter for that election. Wis. Stat. § 6.79(2)(a).

Poll lists (EL-107) may consist of up to four parts:

1. Regular Poll List: Contains the names of all electors who register by 5:00 p.m. on the 20th day before the election.
2. Pre-printed Supplemental Poll List: The municipal clerk may provide a printed list that contains the names and addresses of all voters who registered during late registration. Late registration is from the 19th day before the election up to 5:00 p.m. the Friday before the election. Electors who register during this time will receive a Certificate of Registration (EL-

133) to be presented at the polling place on Election Day. Wis. Stat. § 6.29(2).

Note: If a late registrant fails to present his or her Certificate of Registration (EL-133), but his or her name is on the supplemental poll list, the registrant is allowed to vote. If the individual fails to present his or her Certificate of Registration (EL-133) and his or her name does not appear on the supplemental poll list, the election inspector should attempt to contact the municipal clerk and determine if he or she has record of the elector's registration. If there is no record of the elector's registration in the clerk's office, then he or she must complete another Voter Registration Application (EL-131) and provide proof of residence before being allowed to vote. Wis. Stat. § 6.29(2)(b).

3. Handwritten Supplemental Poll List: Election inspectors must enter the name, address, and Election Day voter number of Election Day registrants on the handwritten supplemental portion of the poll list. The type of proof of residence provided as well as the name of the issuing entity or organization should also be recorded here. Wis. Stat. § 6.79(2)(c), (d).
4. Confidential Elector List: If there are any confidential electors in the reporting unit, their names and confidential voter identification numbers will appear at the back of the poll list in a separate section. See the "Confidential Electors" section below for more details. Wis. Stat. § 6.79(6).

Poll List Notations

There are a number of notations that will appear on the pre-printed poll lists as well as a number of notations that election inspectors are required to make on both copies of the poll lists to ensure proper documentation of voters and registrants on Election Day.

1. Pre-Printed Poll List Notations

The pre-printed portion of the poll list may contain certain notations to indicate special circumstances. Possible notations include:

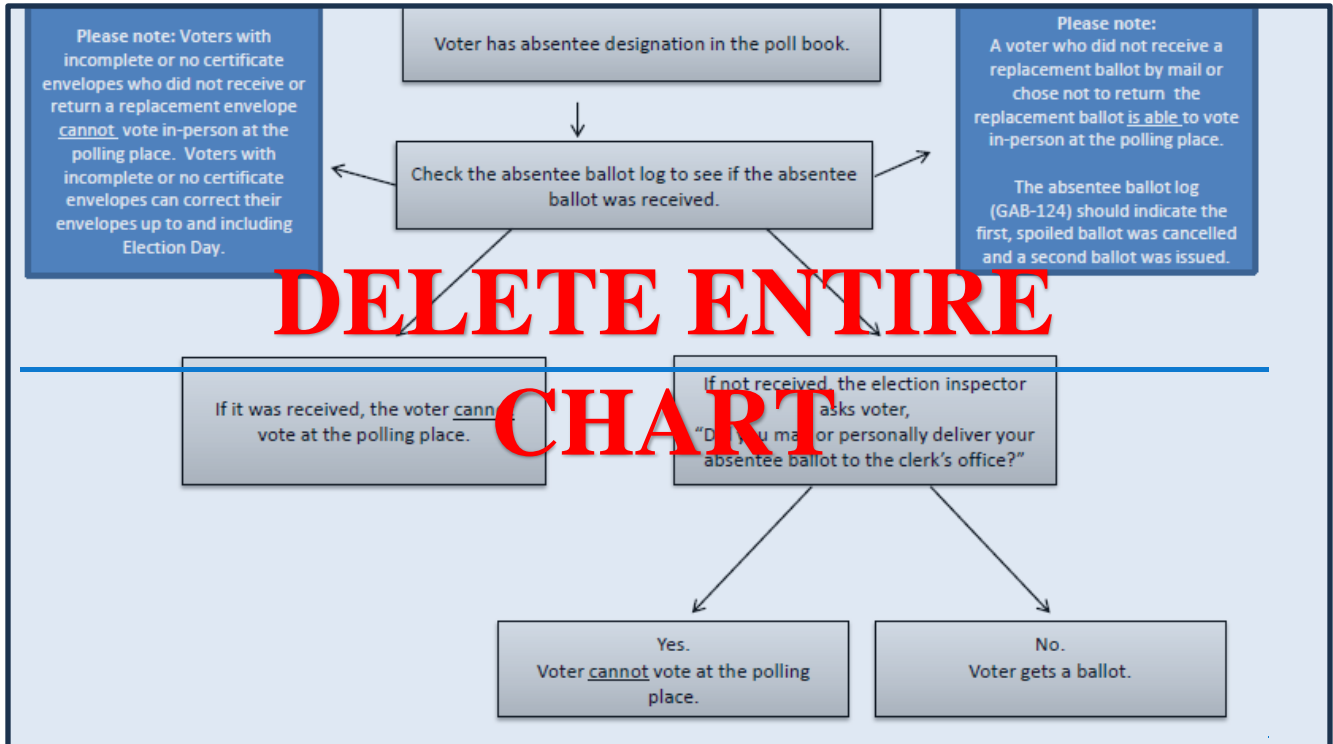
- a. Absentee Issued or Absentee Returned
 - i. Municipalities must track absentee ballots on the pre-printed poll list. The clerk shall also provide each polling place an Absentee Ballot Log (EL-124).

ii. The absentee notation indicates that an absentee ballot was issued to the voter or returned by the voter.

b. Military or Overseas

c. Confidential

Absentee Ballot Issued Process



i. If an individual noted as “absentee” appears at the polling place, the inspectors should check the Absentee Ballot Log (EL-124) to determine if the ballot has been returned.

1. If it has been returned and there are no errors that would cause the ballot to be rejected, the voter may not vote at the polling place. Wis. Stat. § 6.86(6).

2. For procedures on how a voter can correct an incomplete certificate envelope at the polling place, see “Voter Correction of Incomplete Certificate Envelopes” on pg. XX. ~~If it has been returned and there are errors that would cause the ballot to be rejected, the voter may only~~

~~correct the error. The voter may NOT vote a new ballot at the polling place.~~

~~a. The election inspectors shall issue a new certificate envelope to the voter.~~

~~b. The voter must open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope.~~

~~c. The voter may NOT remove the ballot from the voting area.~~

~~d. The election inspectors may NOT serve as the witness (the original witness must be present).~~

~~e. The original certificate envelope is then destroyed.~~

~~f. The election inspector should document that a correction was made, and the ballot accepted on the Absentee Ballot Log (EL-124).~~

3. If it has not been returned, the election inspectors ask the voter, “Did you mail or personally deliver your absentee ballot to the clerk’s office?”
 - a. If “yes,” the voter cannot vote at the polling place.
 - b. If “no,” the voter is issued a ballot if otherwise qualified.
4. If an absentee ballot is later received for that voter, the elector’s absentee ballot would be processed as a rejected absentee ballot and the clerk contacted immediately.

Wis. Stat. § 6.86(6).

2. Election Day Notations

The election inspectors must make certain notations on the poll list next to the voter's name to identify voters who vote under the following circumstances:

a. Absentee

Indicate "absentee" or an "A" next to the voter number for an elector whose absentee ballot has been processed.

b. Provisional (Section 6.97)

- i. Indicate "PV#__ (beginning with '1') when recording an elector who votes a provisional ballot.
- ii. The complete PV# should be recorded on the poll list, on the back of the ballot, on the Provisional Ballot Certificate Envelope (EL-123), on the Inspectors' Statement (EL-104), the Provisional Ballot Reporting Form (EL-123r), and on the Provisional Voting Information Sheet for the elector.
- iii. A brief explanation of why the provisional ballot was issued should also be recorded on the poll list:
 1. DL# or DMV ID#
 2. POI

Wis. Stat. § 6.97

c. Challenged

Indicate "Challenged" and a brief explanation of the reason for challenge (age, residency, etc.) when recording an elector who votes a challenged ballot.

d. Assisted

- i. Indicate "Assisted" for an elector who receives assistance in marking his or her ballot.
- ii. The full name and address of the individual providing assistance must also be recorded on the poll list.

e. Ballot Received at Poll Entrance (Curbside Voting)

Indicate "Ballot Received at Poll Entrance" for a voter who receives a ballot at the polling place entrance because the voter is

unable to enter the polling place due to a disability. Wis. Stat. § 6.76.

f. Electors Voting Pursuant to Court Order (Section 6.96)

- i. Indicate “Section 6.96” when recording an elector who votes after the polls close pursuant to a court order.
- ii. An elector entering the polling place after 8:00 p.m. will also have his or her ballot marked with the notation “Section 6.96.” This enables ballots cast after the polls closed pursuant to the court order to be removed from the count in the event that the court order is set aside.
- iii. Note that voters in line by 8:00 p.m. should not be marked pursuant to this section.

Wis. Stat. § 6.96.

g. Presidential Only

- i. Indicate “Presidential Only” on the supplemental poll list when a new Wisconsin resident (someone who has lived in the state less than 28 days) wishes to vote for president.
- ii. These electors must complete the Application for Presidential Ballot (EL-141), not the Voter Registration Application (EL-131).
- iii. These individuals must provide proof of residence. The type of proof of residence and the name of the issuing entity or organization should be recorded on the supplemental poll list.
- iv. These individuals must provide proof of identification.

Wis. Stat. § 6.15.

Election Day Registration

Ensuring that all eligible electors are properly recorded and registered on Election Day builds confidence in the election process. All electors must be registered before being issued a ballot and all electors who cast a ballot must be recorded on the poll or supplemental list.

If an elector has not registered prior to Election Day, he or she may register at his or her polling place. The WEC recommends that a separate table be set-up at the polling place to register voters. This practice can reduce waiting times for many electors and better manage the flow of traffic.

To register at the polling place on Election Day:

1. The elector must complete a Voter Registration Application (EL-131) either on paper or on the e-pollbook.
2. The elector must provide proof of residence.

Note: The Voter Registration Application (EL-131) has detailed instructions on the back of the form that can serve as a guide for proper completion. Proper completion of the EL-131 will reduce the amount of work for the municipal clerk after Election Day and ensure the voter will appear on the poll list for future elections. Wis. Stat. § 6.33(1).

Voter Registration Application (EL-131)

Proper completion of the Voter Registration Application (EL-131) will ease the process of entering information into WisVote and ensure the voter will appear on the poll list for Election Day. It is the responsibility of the municipal clerk to notify an elector of any insufficiency in their voter registration application within 5 days, if possible. A customizable letter template (EL-132) is available for this purpose. There is an updated version of the EL-131, which this manual will outline. However, any version of the EL-131 should be accepted as long as it contains proper information.

Front Side of Voter Registration Application

1. Qualifications
 - a. Registrants must be able to check each of the four boxes in this section. Wis. Stat. § 6.02.
 - b. The registrant may be 17 years old if they will be 18 years old by the time of the next election.
2. Your Name
 - a. The registrant should provide their full name as it is printed on the Proof of Residence document they provide.

3. About You

a. Date of Birth

- i. Month, day, and year of birth is required. Voters should be encouraged to use all four digits of their year of birth, but if someone writes the last two digits, the application should not be denied.

b. Contact Information (OPTIONAL)

- i. Any phone or email address provided is subject to open records requests.

4. The Address Where You Live

- a. This is the voter's address where they vote from, which may be different than their mailing address.

- b. This section will also be used to indicate military or permanent overseas statuses.

- i. **Military** – A member of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine of the United States, Peace Corps, the commissioned corps of the Federal Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States, and any spouse or dependents of the above who are residing with or accompanying them.

- ii. **Permanent Overseas** – A U.S. Citizen who is not disqualified from voting and is qualified to vote except for residency, but who last resided (or whose parent last resided) in Wisconsin prior to residing outside the United States. Permanent overseas voters should provide the last address in Wisconsin either they or their parent last resided before permanently moving overseas.

5. Your Mailing Address

- a. If the registrant does not receive mail at the residential address, a mailing address should be provided. Failure to provide a valid mailing address may result in the voter registration being inactivated.
- b. Electors residing overseas should provide their complete overseas address where space is available.

6. Prior Registration Information

- a. Name Change
 - i. A voter is required to update their registration if they change their legal name.
 - ii. As it may take some time for a voter to receive proper documentation of their new legal name, a registered voter may continue to vote using their former name until the necessary documentation to re-register is received.
- b. Address Change
 - i. A registered voter is required to update their registration if they wish to vote from their new residence.

7. Identification

- a. To complete the Voter Registration Application (EL-131), the registrant must provide either a Wisconsin Driver License or Wisconsin DOT-issued Identification Card, or the last four digits of their social security number. This does NOT require visual confirmation by the clerk, or an election inspector and the elector may write down or recite the number if they choose. An elector cannot be required to show their WI Driver License, WI DOT-Issued ID Card or Social Security card as a condition of registration, unless it is a document used to provide acceptable proof of residence.
- b. Wisconsin Driver License or Wisconsin DOT-issued ID Card Number
 - i. If the registrant has been issued either a WI Driver License or WI DOT-Issued ID Card that is unexpired, they must provide the number and expiration date, even if the registrant's driving privileges were revoked or suspended.
 - ii. If the registrant has a WI Driver License or WI DOT-Issued ID Card that is unexpired but does not have the number or expiration date readily available, they may call DMV at (608)

266-1069, option 1 or (844) 588-1069 (toll-free) to look up the information.

- iii. If the registrant has either a WI Driver License or WI DOT-Issued ID Card that is currently expired or cancelled, request the voter provide the identification number if available. The registrant must provide the last 4-digits of the Social Security Number, if any.

c. Social Security Number – Last Four Digits

- i. If the registrant has not been issued a WI Driver License or WI DOT-Issued ID Card, or the document is expired or cancelled, the registrant must provide the last 4-digits of their Social Security Number, if any.
- ii. If the registrant does not have either a WI Driver License or WI DOT-Issued ID Card and has not been issued a Social Security Number, they may indicate this by checking the box signifying they have none of these documents.

8. Proof of Residence

- a. The registrant will affirm that they are providing a valid form of proof of residence with this application.
 - i. Some examples include a copy of their Wisconsin-issued driver license or photo ID, a utility bill, any government-issued document, a paycheck, or a bank or credit card statement.
- b. Military and Permanent overseas voters do not need to provide a proof of residence document.

Wis. Stat. § 6.34(3)(a).

9. Signature and Certification

- a. The registrant should read this language before certifying that they are an eligible elector and have resided in the ward for at least 28 days.
- b. They will provide their signature and the date they are signing.

10. Assistant

- a. If the registrant required another person to complete this form on their behalf due to a physical disability, the assistant should sign and provide their residential address here. Wis. Stat. § 6.82(2)(d).

11. Official Use Only Section

- a. The election official receiving the application (clerk, election inspector, ERO) should review the proof of residence.
- b. At the top of the section, the official will circle the Proof of Residence type.
 - i. WI DL – Wisconsin-Issued Driver License.
 - ii. WI ID – Wisconsin-Issued State Identification Card.
 - iii. UTIL – Any form of utility bill, including cell phone, cable, electric, gas, and water. Must be dated no more than 90 days prior to the date the registrant submits the document.
 - iv. BANK/CC – A bank or credit card statement. An offer to open a credit card is NOT an acceptable Proof of Residence document.
 - v. PYCK – Paycheck or Paystub.
 - vi. STDNT ID – A student ID that includes a photo (address not required). The registrant must provide either:
 1. A fee payment by the university, college, or technical college dated no earlier than 9 months before the date of election. The fee payment receipt must include the name and address of the student.
 2. A certified and current list of students who reside in housing sponsored by the university, college, or technical college. This list should be provided by the university, college or technical college, and the election official will verify the name of the student on the ID is included on the list.
 - vii. GOV DOC – Any government-issued document.
 1. Examples include (not an exhaustive list):
 - a. Vehicle Registration
 - b. BadgerCare/Medicare statements (if issued by gov't agency)
 - c. Social Security statements (if issued by gov't agency)
 - d. Public school correspondence.

- e. Tribal ID or Tribal-issued mail
 - f. Change of address from USPS
 - g. Federal student loan notices (if issued by gov't agency)
 - h. Mail from publicly-owned medical facilities, such as UW Hospitals and Clinics, VA Hospitals, county-owned clinics
- viii. LSE – a residential lease containing the landlord name, tenant name, address subject to lease, term, rent, landlord signature, and tenant signature.
 - ix. GOV ID – any other identification card or license issued by a Wisconsin governmental body or unit.
 - x. EMPL ID – An identification card issued by an employer in the normal course of business and bearing a photo of the card holder, but not including a business card.
 - xi. RES CARE – a contract or intake document from an occupant of a residential care facilities that specifies the occupant currently resides in the facility.
 - xii. TAX – A real estate tax bill or receipt for the current year or the year preceding the date of the election.
 - xiii. HMLSS – A signed letter on public or private social security agency letterhead identifying a homeless voter and describing the individual's residence for voting purposes.
- c. Proof of Residence Issuing Entity
 - i. WI DMV, MG&E, WE Energies, etc.
 - d. Proof of Residence Number, if any
 - i. If the unique number associated with the proof of residence is 7 or more digits in length, the last 4 digits should be recorded here.
 - ii. If the unique number associated with the proof of residence is 6 or fewer digits in length, only the last 2 digits are recorded here.

Wis. Stats. §§ 6.34(2), 6.15(2)(bm).

- e. Date Complete/POR Received
 - i. If the application is complete and the proof of residence is acceptable (see below), the election official who received the application (ERO, election inspector, or clerk) should date it.
 - ii. If the application is received via mail, the clerk should date it after reviewing it for completeness and legibility.
- f. Election Day Voter Number
 - i. If registering on Election Day, the voter will be issued a voter number. This number should also be recorded on the supplemental poll list.
- g. WisVote ID #
 - i. This number is only provided once the registration has been entered in WisVote and the voter has become registered.
- h. Confidential Elector ID #
 - i. If the registrant has registered through the confidential elector process, they will be issued a number that should be listed here.
- i. Submitted by mail
 - i. If registrant mailed their voter registration application, check this circle.
- j. Official's signature
 - i. The election official first receiving the application (ERO, clerk, election inspector) should review the form for completeness and legibility before signing.
 - ii. If the application is incomplete or illegible, the election official should not sign the form.
 - 1. If the registrant is still available, ask the registrant to complete the missing information or print more clearly.
 - 2. If the registrant is no longer available, the election official should submit this form to the clerk with a note explaining the deficiency.
 - 3. The clerk should contact the registrant within 5 days of receipt of any incomplete or illegible applications.

- iii. If the application is being received after the 20th day before the election or on Election Day, the election official must also check the Ineligible Voter List before signing (see respective registration procedures above).

k. Bottom Row

- i. Ward
- ii. Sch. District
- iii. Alder
- iv. City Supr.
- v. Ct. of App
- vi. Assembly
- vii. St. Senate
- viii. Congress

Back Side of Voter Registration Application

1. If the registrant resides somewhere without a designated address, the registrant should use the map in box 4 on the backside to diagram where they reside in relation to known streets or landmarks.
2. If the registrant needs accommodations at their polling place (curbside voting, braille materials, etc.), they should make those requests on the bottom of the backside.
3. If the registrant is interested in being a poll worker, they should indicate on the bottom of the backside.

EL 3.02

Proof of Residence

Everyone (except military and permanently overseas electors) who wishes to register to vote or update their voter registration must present a proof of residence to prove that the person resides at the address listed on the Voter Registration Application (EL-131). A registrant does not need to provide a copy of the proof of residence; the registrant may simply show the document to the election official. Electronic versions are also acceptable (see Electronic Proof of Residence). The document must contain the person's current and complete name and current and

complete residential address. If the document has an expiration date, it must not be expired on the day registration is made.

The following documents constitute acceptable proofs of residence:

1. A current and valid Wisconsin Driver License or receipt for license.
2. A current and valid Wisconsin DOT-issued Identification Card or receipt for identification card.
3. Any other official identification card or license issued by a Wisconsin governmental body or unit.
4. Any identification card issued by an employer in the normal course of business and bearing a photo of the card holder, but not including a business card.
5. A real estate tax bill or receipt for the current year or the year preceding the date of the election.
6. A residential lease.
 - a. A residential lease should contain:
 - i. Landlord Name
 - ii. Tenant Name
 - iii. Address Subject to Lease
 - iv. Term
 - v. Rent
 - vi. Landlord Signature
 - vii. Tenant Signature
7. A university, college or technical institute identification card (must include photo, address not required) with one of the following:
 - a. A fee payment receipt issued to the cardholder by the university, college, or technical college dated no earlier than 9 months before the date of the election.
 - i. The fee payment receipt must include the name and address of the student.

13. A contract or intake document from an occupant of a residential care facility that specifies that the occupant currently resides in the facility.

Wis. Stat. § 6.34(3)(a).

Electronic Proof of Residence

1. Otherwise, valid proof of residence documents presented electronically on a device such as a laptop, smartphone, or tablet are acceptable for voter registration purposes.¹
 - a. The standard of review should be the same whether the document is physically presented to an election official or viewed in an electronic format.
 - b. Election officials may NOT reject an otherwise valid proof of residence merely because it is in an electronic format.
 - c. If the proof of residence is presented using the registrant's electronic device, the election official may ask the registrant to expand the size of the type or image, or otherwise navigate the document or image so that the election official may view any required information (i.e., name of the registrant, address, account number, date, type of document, and issuing entity or institution).
 - d. If the document is not readable in the format presented or the election official is otherwise unable to determine that it constitutes a valid proof of residence, the election official may reject the document and require the registrant to present another proof of residence.
2. Election officials are not required to provide computers or Internet access for voters to use to obtain electronic copies of proof of residence to facilitate voter registration. It is the responsibility of the registrant to show or provide a copy of their proof of residence.
3. Election officials are not required to handle a registrant's electronic device, but may do so with the registrant's permission.

¹ On August 28, 2012, the G.A.B. voted unanimously to allow electronic versions of acceptable proof of residence during the voter registration process.

Ineligible Voter list

Each polling place must have a list of ineligible voters. This list is generated by the Department of Corrections and lists all individuals in that municipality or county who are currently out of prison but still completing the terms of their felony sentence. The individuals on this list are not eligible to vote. Wis. Stat. § 6.79(2).

1. The election official must review the Ineligible Voter List for each Election Day registrant and absentee ballot to confirm that the elector is eligible to vote on the day of the election.
 - a. If the name of an Election Day registrant appears on the list:
 - i. The election official shall inform the elector that the elector is ineligible to register to vote per Department of Corrections.
 - ii. If the elector agrees that they are ineligible, the registration should be rejected.
 - iii. If the elector maintains that he or she is eligible to vote in the election, the election official shall make a reasonable effort to contact the WEC to verify the elector's felony status.
 1. If the WEC confirms the elector is eligible to vote, the election official should document on the Voter Registration Application (EL-131) that they confirmed the voter's status with the WEC and then allow the elector to proceed to register to vote.
 2. If the WEC confirms that the elector is NOT eligible to vote or if the election official is unable to contact the WEC, the election official should:
 - a. Give the elector the Ineligible Voter Information Sheet that explains to the elector what they need to do to resolve the issue with the Department of Corrections.

Note: Election Inspectors do NOT need to review the Ineligible Voter List for pre-registered individuals who appear at the polling place to vote.

Issuing Ballots and Voting

Providing the correct ballot to the voter and enabling the elector to mark a ballot privately and independently are two of the most important tasks for election inspectors on Election Day. It is essential that you are familiar with the correct procedure for issuing ballots and facilitating voting.

Procedure

When a registered elector (or an Election Day registrant upon completing his or her Election Day registration) appears at the polling place:

1. The elector announces his or her name and address to the election inspectors maintaining the poll lists.
 - a. A voter who is unable to state their name and address may have the poll worker or assistor of their choosing state their name and address on their behalf prior to receiving a ballot. Poll workers or assistors may read the name and address directly from the poll book or the photo ID provided by the voter. Voters can also provide their information in writing to poll workers or assistors. Wis Stat. 6.79(8).
 - b. A confidential elector (see “Confidential Electors”) may present an Identification Card of Protected Individual or announce his or her name and confidential elector identification number instead of announcing name and address.
2. The inspector asks the elector to show an acceptable proof of identification (except for confidential electors and voters required to surrender their Wisconsin driver license, who are required to provide an alternate document).

Proof of Identification

- i. A Wisconsin DOT-issued driver license, even if driving privileges are revoked or suspended; can be expired but only since the last General Election.
- ii. A Wisconsin DOT-issued identification card; can be expired but only since the last General Election.
- iii. A Military ID card issued by a U.S. uniformed service; can be expired but only since the last General Election.
- iv. A U.S. passport; can be expired but only since the last General Election.
- v. A certificate of naturalization that was issued not earlier than two years before the date of an election at which it is presented.
- vi. An unexpired driving receipt issued by Wisconsin DOT.
- vii. An unexpired identification card receipt issued by Wisconsin DOT.
- viii. An identification card issued by a federally recognized Indian tribe in Wisconsin.
- ix. An identification card issued by a Wisconsin-accredited university or college ONLY valid if the voter provides proof of enrollment. Proof of enrollment includes, but is not limited to, a fee receipt, class schedule or an enrollment verification form. The card must contain the following:
 1. Student's name
 2. Student's photograph
 3. Date of issuance
 4. Signature of student
 5. Expiration date no later than two years after date of issuance

- a. A school ID card does not have to include a proof of enrollment document if unexpired.²
 - b. If the school ID card is expired, it must be presented with a proof of enrollment document.³
 - c. Proof of enrollment documents include, but are not limited to, a fee receipt, class schedule or an enrollment verification form.
- x. An unexpired Veterans Affairs ID Card
 - xi. A temporary identification card receipt issued by Wisconsin DOT through the Identification Petition Process (IDPP) (valid for 60 days).

Wis. Stat. § 5.02(6m).

Note: For a picture guide of acceptable proofs of identification, see the appendix. Note that not all ID variations are shown.

- b. The inspectors verify that the name on the ID conforms to the name on the poll list. The name on the ID may be a variation of the name on the poll list.
 - i. Common variations on names, for instance “Robert” vs. “Bob” or “Margaret” vs. “Peggy.”
 - ii. Variations of initials or upper- or lower-case letters.
 - iii. Hyphenated names, such as “Smith” vs. “Smith-Jones.”

Note: Election inspectors can ask a voter to remove their ID from their wallet if they cannot see the relevant information (name, photo, expiration date).

² On July 29, 2020, the 7th Circuit Court of Appeals issued its mandate in the *One Wisconsin* decision and determined that students who present a qualifying unexpired student ID as proof of identification are not required to also provide a proof of enrollment document to meet the requirement. However, if a student presents a qualifying expired student ID as proof of identification, they must then provide a proof of enrollment document to meet the requirement.

³ IBID.

- c. The inspectors verify that any photograph on the proof of identification reasonably resembles the elector. Election inspectors should take into account that changes in a voter's physical appearance do not invalidate the proof of identification.
 - d. The inspectors verify that the proof of identification is unexpired or, if expired, it meets the expiration specifications listed above.
 - e. If the elector does not have an acceptable proof of identification for voting purposes, they must be offered a provisional ballot.
- If the election inspectors do not believe the name conforms or the photo does not reasonably resemble the voter, the voter's ballot should be challenged.
- f. The address on the proof of identification does NOT need to match the address on the poll list.
3. The elector signs the poll list. If the elector refuses to sign the poll list, writes something other than their name (a name other than their own or profanity, etc.), he or she is not issued a ballot. Wis. Stat. § 6.79 (2)(a).
- a. The elector only signs one poll list.
 - b. Election inspectors must ensure that all voters are signing the same poll list which is later provided to the county clerk.
 - c. The elector can sign the poll list by making his or her "mark" which may or may not be legible.
 - d. Election inspectors are not required to compare the voter's signature to the signature on the proof of identification.
 - e. If another person signed the voter's registration form because the voter was unable to sign due to disability, the inspector writes the word "Exempt" on the signature line. Wis. Stat. § 6.79(2)(am).
 - f. If voter was already registered, but claims to be unable on Election Day to sign due to physical disability, and both inspectors concur, the

inspectors shall enter the words “Exempt by order of inspectors” on the signature line.

- g. If both inspectors do not waive the signature requirement, the voter shall be allowed to cast a ballot and the inspector or inspectors who did not waive the requirement shall challenge the ballot and document the situation on the Inspectors’ Statement (EL-104).
4. A voter number is assigned to each elector beginning with the number “1” and recorded simultaneously on two identical poll lists maintained by two different election inspectors.
5. The officials shall then provide each elector with a slip bearing the same serial number as is recorded for the elector upon the poll list or separate list. Wis. Stat. § 6.79(2)(am).
6. Once an elector’s voter number has been recorded on both poll lists, he or she is given their ballot, which has been initialed by two election inspectors. Please verify the elector is given the correct ballot style for their address.
Note: Reduce the possibility of fraud by keeping unvoted ballots where voters do not have access to them and by not initialing ballots in advance.
7. Direct the voter to the voting area.
 - a. Be sure to ask the voter if he or she has any questions about how to correctly cast his or her ballot.
 - b. Be prepared to answer questions on how to use equipment, mark a ballot, or place a ballot in the ballot box.
 - c. If a voter is using direct recording electronic (DRE) equipment, remind him or her to check the voter-verified paper trail before casting his or her ballot. The paper trail serves as the voter’s official ballot.
8. The voter should go directly to the voting booth to mark his or her ballot.

Note: A voter may take any person of their choosing, except a representative of their labor union or employer, with them into the voting booth to provide assistance in marking the voter’s ballot. The assistor must

provide their name and address to election officials and sign in the space provided on the back of the ballot to indicate that they assisted the voter in marking the ballot. Assistors may include minor children and election inspectors. Wis. Stat. § 6.80(1).

9. ~~If a voter makes an error while marking his or her ballot, the voter may request another ballot.~~ If a voter, by accident or mistake, spoils or erroneously prepares their ballot, they may receive another by returning the defective ballot to an election official. Wis. Stat. § 6.80(2)(c).
 - a. The first-defective ballot must be returned to the election officials and spoiled (torn to make it unusable).
 - b. The spoiled ballot should be kept in an envelope to be returned to the municipal clerk with the other election materials.
 - c. Up to three ballots may be issued to a voter. Wis. Stat. § 6.80(2)(c). A notation (2nd or 3rd ballot issued) should be made on the Inspectors' Statement (EL-104) and poll list for each additional ballot issued.
 - e.d. Note: It is the opinion of the Commission that this procedure is not affected by the ballot spoilation injunction in Kormanik v. WEC (2022CV001395).
10. The voter then places his or her voted ballot into the tabulating device or appropriate ballot box. Or, if using direct recording electronic equipment (DRE), the voter casts his or her ballot and closes out the voting session.
11. The voter should then leave the polling place unless he or she intends to stay as an observer.

Confidential Electors

Electors who are victims of domestic abuse, sexual assault or stalking have the option to be listed confidentially on poll lists. If your municipality has confidential electors, they will be indicated in the “Confidential” section of the pre-printed poll list. This section appears at the back of the poll list. This section of the poll list is NOT open to public inspection.

A confidential elector may present his or her Identification Card for Protected Individual or announce his or her name and confidential elector identification number rather than announce his or her name and address. Confidential electors must still sign the poll list if they vote at the polls on Election Day.

Procedure

1. The voter presents his or her voter identification card (EL-148) that will contain a unique identification serial number assigned to him or her by the municipal clerk or announce his or her name and confidential elector identification number instead of announcing his or her name and address at the polling place and providing proof of identification.
2. The voter signs the poll list.
3. The voter is assigned a regular voter number.
4. The voter is then issued a ballot and allowed to vote like any other voter.
5. The address of the protected individual is not disclosed on the confidential portion of the poll list.
 - a. The confidential portion of the poll list is NOT open to public inspection. Election officials may, upon request, disclose the existence of the list, the number of electors whose names appear on the list, and the number of those electors who have voted at any point in the proceedings.

Wis. Stat. § 6.47.

License Surrender

An elector who has been required to surrender his or her driver license or driver license receipt to a law enforcement officer may provide the notice or citation in lieu of a proof of identification.

Procedure

1. The voter states his or her name and address.

2. The voter presents his or her citation or notice to revoke or suspend as proof of identification.
3. The voter signs the poll list.
4. The voter is assigned a regular voter number.
5. The voter must vote using a paper ballot.
6. The election inspector records the voter number on the back of the ballot with the notation "Section 6.965."
7. The voter is issued the ballot and allowed to vote like any other voter.

Wis. Stat. § 6.965.

Assisting Electors

All electors have a right to receive assistance marking their ballots if they cannot read or write; have difficulty reading, writing, or understanding English; or have a disability that prevents them from marking the ballot or using the voting equipment. When one of these conditions is indicated, election officials must inform the elector of their right to receive assistance. An elector may select anyone to provide assistance in marking his or her ballot other than the voter's employer or an officer or agent of a labor organization which represents the voter. An election inspector can, and should, provide assistance if requested.

Procedure

If an elector informs the election inspector that he or she requires assistance marking his or her ballot, the election inspector should:

1. Give the elector a voter number and issue them a ballot.
2. The elector must sign the poll list.
 - a. If the elector cannot sign the poll list the election inspectors should write, "Exempt by order of inspectors" in the signature line.
 - b. Election inspectors should have signature guides and page magnifiers available for those electors who have difficulty seeing.

3. Record the name and address of the person assisting the elector on the poll list.
 - a. Electors may select any individual to assist them to cast their vote, including an election inspector. Exception: the elector's employer or an officer or agent of a labor organization that represents the elector may not assist the elector.
 - b. The person assisting the elector does not have to be a qualified elector.
4. A person who assists a voter must certify on the back of the ballot that it was marked with their assistance before depositing the ballot in the ballot box.
5. This incident should be recorded on the Inspectors' Statement (EL-104).

COMMON SENSE AND COMMON COURTESY

Many election inspectors have had little interaction with people with disabilities; here are a few courtesies and guidelines:

- Remember that all voters deserve courteous attention in exercising their right as citizens to vote.
- Remember not all disabilities are visible. Each individual knows their own abilities best. If an individual requests assistance, trust that it is necessary.
- Be considerate of the extra time it might take for a person with a disability or an elderly person to get things done.
- Animals that assist people with disabilities must be admitted into all buildings. Such animals are highly trained and need no special care other than that provided by the owner.
- Greet a person who is visually impaired by letting the person know who and where you are.
- When offering walking assistance, allow the person to take your arm and tell them if you are approaching steps or inclines or are turning right or left.
- If someone uses a mobility aid like a wheelchair, ask if they would like assistance. If they would like assistance, ask how you can assist them. Do not push their chair without their consent.
- Speak directly to the person who has a disability rather than just to a companion who may be accompanying them.
- Speak calmly, slowly, and directly to a person who is hard of hearing. Your facial expressions, gestures, and body movements help in understanding. Don't shout or speak in the person's ear. If full understanding is doubtful, try writing a note to the person.
- Pre-printed signs or a notepad should be available to assist communication with deaf or hard-of-hearing electors.
- Give unhurried attention to a person who has difficulty speaking.
- Provide a guiding device such as a ruler or a signature guide for signing forms.
- You can assist a voter with filling out the registration form. If a voter is unable to sign their own registration form, you can sign their name and then your own as the assistant.
- State and federal law permits voters with disabilities to be accompanied and to receive assistance by another person in the voting booth.

Curbside Voting

A voter who, as a result of disability, is unable to enter the polling place may elect to receive a ballot at the entrance of the polling place. Wis. Stat. § 6.82(1). The voter may receive assistance in marking the ballot, if required, from an election inspector, or from any other person of the voter's choice (except the voter's employer or an agent of the elector's labor union). An unregistered voter may also register to vote curbside.

Once the election inspectors become aware that a voter wishes to vote curbside, they should use the following procedure:

1. The election inspectors announce in the polling place that an elector has requested a curbside ballot, and the inspectors are going to the vehicle to view the voter's proof of identification.
 - a. If having two election inspectors leave the polling area would result in fewer than three election inspectors in the polling area, voting must stop until the election inspectors return.
2. Two election inspectors go to the vehicle and speak to the voter. The election inspectors return to the polling area and announce that they are issuing a ballot to the voter.
 - a. The inspectors should ask the voter if they are unable to enter the polling place.
 - i. If the voter indicates he or she is able to enter the polling place, curbside voting may not be used.
 - b. The inspectors should ask the voter to present acceptable proof of identification.
 - i. The inspectors determine if the voter may vote a regular ballot or a provisional ballot.
3. The voter is not required to sign the poll list. A notation "Ballot received at poll entrance - Exempt" is made in the signature line of the voter on the poll list.

4. Two inspectors initial the ballot. A voter number or provisional voter number is issued to the voter and recorded in the voter lists.
5. Two inspectors deliver the ballot to the curbside voter in a security sleeve.
6. The curbside voter marks the ballot or has an assistor mark the ballot for the voter. (If assistor, see “Assisting Electors” section).
7. The inspectors return to the voting area and announce: “I have a ballot offered by (voter’s name), a voter who, as the result of a disability, is unable to enter the polling place without assistance. Does anyone object to the reception of this ballot?”
 - a. If an objection is made, follow the challenge procedures detailed below under “Challenging Electors”.
8. If no objection is made or after any challenge is resolved, the ballot is deposited in the appropriate ballot box or tabulating equipment.
9. This incident should be recorded on the Inspectors’ Statement (EL-104).

Wis. Stat. § 6.82(1).

Provisional Voting

In Wisconsin, provisional voting is ONLY used in two situations:

1. If an individual who attempts to register to vote at the polling place on Election Day has been issued a Wisconsin Driver License or Wisconsin DOT-issued Identification Card, that is unexpired, even if driving privileges were revoked, but is unwilling or unable to provide the license or state identification card number, and the lack of that number is the only missing item of information, the individual may vote provisionally.
 - a. The number of a WI Driver License or WI DOT-Issued ID Card that has expired or been cancelled, is not required.
 - b. Wisconsin DOT/DMV maintains a Help Desk for individuals to call if they need to look up their WI Driver License or WI DOT-Issued ID

Card Number The phone number is: (608) 266-1069, option 1 or (844) 588-1069 (toll-free).

- c. Individuals who have an unexpired Wisconsin Driver License or valid WI DOT-Issued ID Card may NOT use the last four digits of their Social Security Number to register.
2. If an individual is unable or unwilling to provide an acceptable form of proof of identification, he or she may vote provisionally.
 - a. If the election inspectors do not believe that the name of the elector conforms to the name shown on the proof of identification, or if the elector does not reasonably resemble the photograph on the proof of identification, the elector's ballot should be challenged (see the "Challenging Electors" section).

In the case of an absentee ballot whose envelope indicates that proof of identification must be included with the ballot, the ballot will be rejected if no acceptable form of proof of identification has been provided with the returned ballot.

There is NO other situation in which provisional voting should be used. Provisional ballots are NOT given when a voter is at the wrong polling place. If a voter appears at the wrong polling place, he or she will be directed to the proper location. Provisional ballots are also NOT given when a person is attempting to register in-person at the polling place and cannot provide the required proof of residence.

Wis. Stat. § 6.97(1-4).

Procedure

Once it is determined a voter will vote provisionally, the following procedures are required:

1. Every provisional voter must complete a Provisional Ballot Certificate Envelope (EL-123).
2. The voter completes the certificate envelope in the presence of at least one election inspector by providing:
 - a. Full name

- b. Complete address, including municipality and county
 - c. Date of birth
 - d. Indication of U.S. Citizenship
 - e. Date of election
 - f. Signature and date
3. The election inspector completes the certificate envelope by:
- a. Signing and dating the certificate envelope.
 - b. Indicating the type of required information (either “Driver License or State Identification Card Number” or “Proof of Identification”) by checking the appropriate box or boxes on the certificate envelope.
4. The election inspector issues a provisional voter number (PV#), which is recorded on the poll list. A voter number is NOT issued to the elector at this time and the elector does NOT sign the poll list.
- a. This number is issued sequentially, starting with “1.”
 - b. The PV# is also recorded in six places:
 - (1) The back of the ballot
 - (2) On the Inspectors’ Statement (EL-104)
 - (3) On the Provisional Ballot Certificate Envelope (EL-123)
 - (4) On the Provisional Ballot Reporting Form (EL-123r)
 - (5) On the poll list or supplemental poll list
 - (6) On the Provisional Voting Information sheet for the elector

5. The elector votes the ballot, seals the voted ballot in the Provisional Ballot Certificate Envelope (EL-123), and returns the sealed envelope to the election inspector.
6. The sealed certificate envelope (EL-123) is placed inside the Inspectors' Certificate for Provisional Ballots Envelope (EL-108).
 - a. The election inspectors record the name of the elector, the PV#, and the reason for the provisional ballot on the Provisional Ballot Reporting Form (EL-123r) and on the Inspectors' Statement (EL-104).
 - b. The Inspectors' Certificate of Provisional Ballots Envelope (EL-108) must be kept secure throughout Election Day.
 - c. When the polling place closes, the Inspectors' Certificate of Provisional Ballots Envelope (EL-108) must be secured in a separate ballot bag with a tamper-evident serialized numbered seal. The serial number shall be recorded on the signed ballot container certification attached to the bag and on the Inspectors' Statement. The bag should be marked "Provisional Ballots."
7. Election inspectors must provide the elector with the Provisional Voting Information Sheet and should check the applicable reason that the provisional ballot was issued.
8. An elector who was issued a provisional ballot may return to the polling place before 8:00 p.m. to provide the missing documentation to the election inspectors. Election inspectors shall review the provided documentation to determine if it is satisfactory.
 - a. If the provided documentation is not valid, the election inspectors shall inform the elector and record the incident on the Inspectors' Statement (EL-104) including the type of document presented and why it was not acceptable.
 - b. If the provided documentation is valid:
 - i. The elector must sign the poll or supplemental list.

- ii. Note on the Inspectors' Statement (EL-104) that the elector provided the required documentation.
- iii. Initial and date the Provisional Ballot Reporting Form (EL-123r) to indicate that the elector provided the required documentation.
- iv. Election inspectors should offer the elector the option of spoiling the provisional ballot and voting a new ballot.
- v. If the elector chooses to spoil the provisional ballot:
 - 1. The Provisional Ballot Certificate Envelope (EL-123) is removed from the Inspectors' Certificate of Provisional Ballots (EL-108) envelope and given to the elector.
 - 2. The elector should remove the provisional ballot and spoil it.
 - 3. Document the incident and spoiled ballot on the Inspectors' Statement (EL-104).
 - 4. The elector signs the poll list.
 - 5. The elector is issued a sequential voter number, which is recorded on the poll list and noted on the Provisional Ballot Reporting Form (EL-123r) by marking "on poll list" in the column labeled "Voter Number Issued."
 - 6. The elector is given a new ballot.
- vi. If the elector chooses to cast the provisional ballot:
 - 1. Note on the Inspectors' Statement (EL-104) and initial and date the Provisional Ballot Reporting Form (EL-123r) that the elector provided the required documentation.
 - 2. Remove the elector's Provisional Ballot Certificate Envelope (EL-123) from the Inspectors' Certificate of Provisional Ballots (EL-108) envelope.

3. Verify that the Provisional Ballot Certificate Envelope (EL-123) has not been opened or tampered with.
 - a. If the Provisional Ballot Certificate Envelope (EL-123) has been tampered with, the election inspectors shall spoil the provisional ballot and instruct the elector to cast a new ballot.
4. The elector signs the poll list.
5. The elector is issued a sequential voter number, which is recorded on the poll list and noted on the Provisional Ballot Reporting Form (EL-123r) by marking “on poll list” in the column labeled “Voter Number Issued.”
6. Provide the elector with the Provisional Ballot Certificate Envelope (EL-123) and instruct him or her to remove the ballot and place it in the ballot box or voting equipment.
7. Collect the used Provisional Ballot Certificate Envelope (EL-123) from the elector and place it back in the Inspectors’ Certification of Provisional Ballots (EL-108) envelope.

Processing

1. A Provisional Ballot Reporting Form (EL-123r) must be completed by the election inspectors at the polling place listing all of the electors who cast a provisional ballot. The clerk must review the form and send a copy to both the county clerk and their WisVote provider if different after the close of polls on Election Day. The municipal clerk must keep a copy for his or her office. A blank Provisional Ballot Reporting Form is available on the agency website.
2. All electors who have been issued a provisional ballot must be tracked in WisVote on election night. WisVote must also be updated if/when an elector provides the missing information.
 - a. Self -Providers must enter the information into WisVote. Please see the WisVote Application Training Manual for details.

- b. Reliers must provide the Provisional Ballot Reporting Form (EL-123r) to their Provider. Reliers must inform their Provider with updates if/when electors provide the missing information.
 - c. Providers must enter provisional ballot information into WisVote on election night on behalf of their reliers. Please see the WisVote Application Training Manual for details.
3. Provisional ballots are maintained by the Municipal Clerk (NOT delivered to the County Clerk with all other election materials).
4. Provisional ballots are not counted until the required information (either WI driver license number, state identification card number, or proof of identification) is provided to either the election inspectors by the close of the polls, or to the municipal clerk or deputy by 4:00 p.m. on the Friday after the election.
 - a. Electors who provide their information after Election Day do not sign the poll list.
5. If the person voting provisionally does not present the information to the municipal clerk by 4:00 p.m. on the Friday after the election, the Provisional Ballot Certificate Envelope (EL-123) is not opened. Neither the voter nor the ballot is counted as part of the Election Day results if the missing required information is not returned by the deadline.
6. The chief inspector should maintain communication with the municipal clerk regarding the number of provisional ballots issued on Election Day.

Wis. Stat. § 6.97(1-4).

Challenging Electors

When there is reason to believe that an elector does not meet the qualifications to vote or has not adhered to any voting requirement, the elector may be challenged. Only election inspectors may challenge an elector for failing to adhere to a voting requirement.

1. Challenges that may be brought by any qualified elector of the state, including election inspectors, are as follows:
 - a. Citizenship

- b. Age
 - c. Residency
 - d. Felony Status
 - e. Competency to Vote
 - f. Bet or Wager
 - g. Voted Previously at the Same Election
2. Challenges that may only be brought by an election inspector include:
 - a. Physical Disability does not prevent signing of poll list.
 - b. Photograph on the proof of identification does not reasonably resemble the elector, or the name on the poll list does not conform to the name on the proof of identification.
 - c. The municipal clerk has instructed the election inspectors to challenge the ballot because the clerk does not believe the person requesting a replacement ballot is the original voter.
 - d. Any other failure to adhere to voting requirements.
 3. If an election inspector is offering the challenge, another election inspector should administer the process.
 4. All challenges must be made for reasonable cause as outlined on the Challenge Documentation of the Inspectors' Statement (EL-104c).
 5. The election inspectors should use discretion when administering a challenge and attempt to document the challenge in a calm and respectful manner.
 6. All challenges are recorded using the Challenge Documentation section (EL-104c) of the Inspectors' Statement (EL-104). The form lists the procedures to follow and questions used to establish the challenge.

Challenge Procedure

All challenges are recorded using the Challenge Documentation form of the Inspectors' Statement (EL-104c). This form details the specific procedure to follow and questions used to establish and administer the challenge. The challenge process will be abbreviated when challenging an absentee ballot. A sample of the Challenge Documentation (EL-104c) is located at the end of this manual.

1. When a challenge is made, the challenging elector is placed under oath and asked to make a sworn statement giving the reason for the challenge.
2. The challenging elector is then questioned by the election inspector using the questions on the Challenge Documentation form (EL-104c) to provide reasonable support for the challenge.
3. After the challenge has been made and supported under oath, the challenged elector is placed under oath and asked to make a sworn statement in response to the challenge. Indicate “Sworn” on the poll list.
4. If the challenged elector refuses to make a statement under oath, the elector shall not be given a ballot or permitted to vote.
5. Once the challenged elector has responded to the challenge, the challenging elector has the opportunity to withdraw his or her challenge. If the challenge is withdrawn, a ballot is issued with no special marks, a notation is made in the Inspectors’ Statement (EL-104), and no mark is made on the poll lists.
6. If the challenge is not withdrawn, the election inspector administers the “Oath of Eligibility” to the challenged elector. Once the oath has been made by the elector, a ballot is issued with the voter number and “Section 6.95” marked on the back of the ballot.
7. Once the challenged elector has marked the ballot, it is placed by the elector into the ballot box.
8. The entire Challenge Documentation (EL-104c) is completed and attached to the Inspectors’ Statement (EL-104).
9. A notation “Challenged” and the reason for the challenge is made on the poll lists and the appropriate sections of the Inspectors’ Statement (EL-104) are completed by the election inspector.

Wis. Stat. § 6.95.

Frequently Asked Questions

1. Can a person convicted of a felony vote?

A person who has been convicted of a felony may not vote until the term of his or her sentence, including any term of extended supervision, probation, or parole, has been served. Once the person has successfully completed the terms

of their sentence (you may hear this referred to as being “off-paper”), his or her civil rights are restored, and the person may vote. No additional documentation is required from the person to establish they have completed their sentence.

2. *Does a voter whose name has changed or has moved to a new address within the municipality need to re-register?*

Yes, the voter will need to complete a new Voter Registration Application (EL-131). The voter will then need to provide proof of residence. Please note that a name change is not considered effective for voting purposes until a voter has received an official document with the new name that they can use as proof of residence.

3. *If the poll list has a typo, does the elector need to re-register?*

No, if the poll list has a typo (i.e., name misspelled, or numbers inverted on the address) the voter does not need to re-register. The election inspectors should make a notation on the poll list as well as on the Inspectors’ Statement (EL-104) to notify the clerk that the information needs to be corrected.

4. *What if a voter claims to be registered already but does not appear on the pre-printed poll list?*

First, confirm that the voter is at the correct polling place. If the voter is at the wrong polling place, direct him or her to the correct polling place. If the voter is at the correct polling place, he or she must re-register to vote and provide proof of residence. The voter’s information is then listed on the supplemental poll list.

5. *How much time does a person get to vote?*

According to Wis. Stat. § 6.80(3), each voter shall be allowed a reasonable time to vote. The election inspectors should use appropriate discretion based on each elector’s needs and the complexity of the ballot. In no case shall the time be less than one minute. If there is a line waiting to vote, that time shall be no more than five minutes.

Note: Special consideration should be given to individuals using accessible voting equipment. The audio version of the ballot on this equipment can take additional time.

6. *What happens if the supply of ballots is running low?*

Election inspectors should pay close attention to the number of ballots on hand. If the supply of ballots is running low, the chief election inspector should

immediately contact the municipal clerk. The clerk will arrange for additional ballots to be delivered to the polling place.

If additional ballots are not available, the municipal clerk shall prepare substitute ballots along with a statement of explanation under oath. The election inspectors shall record the incident on the Inspectors' Statement (EL-104), along with an indication of the voter number for the first elector receiving a substitute ballot.

7. *May an election inspector provide a provisional ballot to a voter who is at the wrong polling place?*

No. Voters who are the wrong polling location should be directed to the correct polling location.

8. *When is a challenge unacceptable?*

Any challenge based on an individual's ethnicity, accent, or inability to speak English is unacceptable. A notation of the alleged grounds should be made on the Challenge Documentation form (EL-104c). The challenge should be dismissed, and an unmarked ballot issued to the voter.

ELECTION DAY ISSUES

Summary

Election inspectors are responsible for maintaining an environment at the polling place that allows voters to cast their ballots without disruption from the opening of the polls to the closing of the polls. Election inspectors must also ensure that the voting process is transparent and open to the public.

Opening the Polls

At exactly 7:00 a.m. the polling place must be opened. It is recommended that the chief election inspector holds the official clock. To officially open the polling place, the chief inspector:

1. Unlocks the doors to all entrances, including any alternate accessible entrances.
2. Officially announces the opening of the polls.

Election inspectors may allow people into the polling place prior to 7:00 a.m. However, voters may not check-in or receive a ballot prior to 7:00 a.m.

Wis. Stat. § 6.78.

Observers

Anyone, other than a candidate on the ballot for the election, has the right to be present to observe the conduct of the election.

The Wisconsin Elections Commission has established Administrative Rule EL Chapter 4, outlining a set of rules for observers at the polling place or other location where votes are being cast, counted, canvassed or recounted. A summary of the observer rules must be provided to each observer. The Wisconsin Election Observers Rules-at-a-Glance brochure may be used to meet this requirement and is available on the agency website.

There is no requirement for observers to obtain a permit. All observers will be accorded the same respect regardless of their party affiliation or non-affiliation.

A designated observation area at the polling place or other location where votes are being cast, counted, canvassed or recounted should permit observers to hear instructions and to readily observe all public aspects of the process without disrupting the activities.

If observers are unable to hear the election inspectors and voters, they may ask for the instructions or information to be repeated. However, there is no requirement that the instructions or information be broadcast at a specific volume. If space permits, observers may move within the designated observer area to better view and/or hear the interactions.

To ensure the orderly conduct of the election and/or election administration event, and if necessary due to physical limitations of the host location, an election official may reasonably limit the number of observers representing the same organization or candidate.

Wis. Stat. § 7.41(1).

Management of Observers

Observers should check-in and follow directions from the election official in charge of the polling place or other location where votes are being cast, counted, canvassed or recounted.

Location	Manager
Polling Place	Chief inspector or his/her designee
Central Count	Municipal clerk or his/her designee
Clerk’s Office	Municipal Clerk or his/her designee
Absentee Ballot Canvass	Designated member of canvassing board

Election Observer Log (EL-109)

An observer is required to legibly print his/her full name, street address and municipality, and the name of the organization or candidate the observer represents, if any, on the Election Observer Log (EL-109). The observer is required to also sign this form acknowledging that the observer understands the rules and will abide by them. Additionally, an observer must present photo identification to an election inspector. Any type of photo identification is acceptable if it contains a photo of the observer and the observer’s name. An election official will verify by marking on the EL-109 that the observer’s name

listed on the EL-109 matches the photo identification. If the observer does not want to provide photo identification or the information on the photo identification does not match the information on the observer log, the individual will not be permitted to serve as an observer.

An observer must wear a name tag or badge which reads “Election Observer.” This name tag must be worn at all times the observer is inside of the polling place or other location where votes are being cast, counted, canvassed, or recounted. The name of the observer need not appear on the Election Observer tag or badge.

Wis. Stat. § 7.41(1).

Observer Area – Polling Place

An observation area must always be established when setting up the polling place on Election Day.

Check-In Area: There must be an observer area between three and eight feet from the table at which electors state their name and address to receive a voter number.

Voter Registration Area: There must be an observer area between three and eight feet from the voter registration table.

If space constraints prevent the polling place from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk and chief inspector is required to record on the Inspectors’ Statement (EL-104) the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. The municipal clerk is required to provide a written explanation to the WEC within seven days after the election as to the reasons why the distance requirement could not be satisfied.

Observers should direct questions and concerns to the chief inspector or his/her designee.

Election inspectors should attach the EL-109 to the Inspectors’ Statement (EL-104). The EL-109 may not be viewed by members of the public, including other election observers, on Election Day. It may be obtained from the municipal clerk or board of election commissioners through a public records request after the election.

Observer Area – Central Counting Location

Observers are allowed at a central counting location under Wis. Stat. § 5.86.

Counting Area: There must be an observer area between three and eight feet from the table at which the counting is taking place.

If space constraints prevent the location from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk is required to document the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. The municipal clerk is required to provide a written explanation to the WEC within seven days after the election as to the reasons why the distance requirement could not be satisfied. Observers should direct questions and concerns to the municipal clerk at the central count location.

The EL-109 may not be viewed by members of the public, including other election observers. It may be obtained from the municipal clerk or board of election commissioners through a public records request after the election.

Observer Area – Absentee Ballot Canvass

Canvassing Area: There must be an observer area between three and eight feet from the table at which the canvassing is taking place.

If space constraints prevent the location from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk is required to document the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. The municipal clerk is required to provide a written explanation to the WEC within seven days after the election as to the reasons why the distance requirement could not be satisfied. Observers should direct questions and concerns to a designated member of the absentee board of canvassers.

The EL-109 may not be viewed by members of the public, including other election observers, during this process. It may be obtained from the municipal clerk or board of election commissioners through a public records request after the election.

Observer Cell Phones and Photography in Polling Area

Observers may silently use cell phones in the polling area. Observers may not use cell phones to take or make voice calls (ringer should be silenced). Observers may not take photographs or videos in the polling place. The chief inspector may prohibit an observer from using a cell phone if it is deemed disruptive.

Conduct of Observers

While observers are present, they are prohibited from electioneering or interfering with the orderly conduct of the election and/or election administration event. Any observer who engages in loud, boisterous, or otherwise disruptive behavior with other observers or voters that the election official believes threatens the orderly conduct of the activity or interferes with voting may receive a warning from the election official.

If a warning has been issued, and the offending observer continues the disorderly behavior, the chief inspector should order the offending observer to depart the location. If the offending observer declines or otherwise fails to comply with the chief inspector's order to depart, the chief inspector should summon local law enforcement to remove the offending observer.

In the event that the chief inspector orders an observer to leave a location, the chief inspector is required to provide a written order to the observer (EL-110) which includes the reason for the order and the signatures of the chief inspector as well as another election inspector election official representing the opposite political party, if available. The chief inspector has sole authority to order the removal of an observer, but another election inspector may note his or her concurrence or disagreement with the decision on the Inspectors' Statement (EL-104).

When an EL-110 is completed, the municipal clerk or board of election commissioners is required to notify the WEC of the incident within seven days. This notification should include a copy of the EL-110, if available, and the portion of the Inspectors' Statement which documents the incident. WEC staff will use this information to provide a summary to the Commission after each election of all reported incidents.

Viewing Documents

Observers may examine the poll list so long as they do not interfere with election official responsibilities.¹

1. The election official determines whether it is an appropriate time to allow an observer to examine or photograph the poll list.

If voters are standing in line to have their names recorded and to receive a ballot, it is not an appropriate time to allow observers to view the poll lists.

2. The poll list must remain under the control of election officials at all times.
3. The poll list may not be handed to the observers.
4. Observers are prohibited from viewing the confidential portion of the poll list.
5. Observers are not permitted to make a photocopy of or take photographs or video of proof of residence documents and voted ballots.
6. All observers, regardless of affiliation, should be accorded the same treatment with respect to examining the poll lists.

Observers are not permitted to handle an original version of any official election document, including voter registration forms and/or proof of residence documents while voters are registering.

Additional Prohibited Activities

Observers may not conduct any of the following disorderly activities while monitoring the conduct of the election and/or election administration event.

1. Wear clothing or buttons related to candidates, parties, or referenda that are intended to influence voting at the election.
2. Interact with voters, except when asked by an elector to provide assistance in marking their ballot.

¹ Badger Book users can find the poll list in the Participation List and Count report under the Admin section of the program.

3. Watch voters mark their ballots.
4. Have conversations about candidates, parties or ballot questions.

Voter Cell Phones and Photography in Polling Area

Voters may silently use cell phones in the polling area and voters may take photos or video of themselves if it is not disruptive. Voters may not take photos or videos of other voters or other voters' ballots without their consent. The chief inspector may prohibit an observer from using a cell phone if it is deemed disruptive.

Inspectors may wish to caution voters that sharing an image of their voted ballot in exchange for compensation may violate the election bribery or election fraud statutes.

Media

Members of the media may be present at the public location hosting an election and/or election administration event but cannot interfere with the activities. Members of the media should check-in with the election official in charge of the location. This election official should document the name and affiliation of each member of the media on the Inspectors' Statement (EL-104).

Conduct of Media

1. Communications media observers shall be permitted to use photography and video cameras provided the cameras are not used in a manner that allows the observer to see or record how an elector has voted and provided the cameras do not disrupt or interfere with voting or disrupt the orderly conduct of the election.
2. Contact with electors in the voting area should be limited. This includes interacting with voters who are waiting in line to check-in and/or cast their ballots.
3. Interviews should be held outside of the voting area to ensure doors and entrances are not blocked and the voting process is not disrupted.

The municipal clerk should make sure that media is briefed about acceptable conduct. Members of the media are strongly encouraged to conduct the majority of their activities outside of the room where the election is being conducted. It is the responsibility of the election official to deal directly with any media person who is harassing voters.

Polling Place Accessibility Reviews

The WEC conducts reviews of polling places to check for compliance with the Americans with Disabilities Act, Help America Vote Act, and relevant state statute. Reviewers are temporary staff that have been trained by the WEC. No notice is given in advance of a review. The goal of these reviews is to document the polling place exactly how a voter experiences it. ~~These individuals are not considered observers and may complete their work outside of any designated observer area. These individuals may work outside of the designated observer area - but may not disrupt or interfere with the election.~~ Identifying names tags and/or shirts are permitted. A reviewer will provide a letter of introduction to the Chief Inspector upon arrival at the polling place. The letter includes contact information for WEC staff in case the Chief Inspector has any questions or concerns. These individuals may use video and/or still cameras to document their findings.

Electioneering

Electioneering is any activity intended to influence voting at an election. Electioneering is prohibited on public property within 100 feet of any building entrance a voter may use to access the polling place. This does not apply to private property within the 100 feet rule.

Wis. Stats. §§ 12.03(2), 12.035(3).

Some circumstances to consider:

Vehicles

1. There is an exception for election-related bumper stickers on vehicles parked within 100 feet of an entrance to a polling place for the length of time it takes for the occupants to vote.
2. Employees who work in the building containing the polling place may have stickers on their cars but if complaints are made, the employee should be asked to move his or her vehicle.

3. If it appears that the primary purpose of parking a vehicle within 100 feet of an entrance to a polling place is to influence voting, then election inspectors should attempt to contact the vehicle owner and have them move and should contact a law enforcement officer.

Election Materials

1. Campaign signs or flyers may not be posted or distributed within the polling place or within 100 feet of any entrance to a polling place.
2. This prohibition does not apply to campaign activity on private property within 100 feet of an entrance to a polling place. The placement of election signs on private property within the 100 feet radius is permissible.

Wis. Stat. § 12.03.

Solicitations

Solicitations are not allowed in the voting area or inside a building housing the polling place as solicitors can interfere with the orderly conduct of the election. Solicitors must not interfere with the access of voters entering and leaving the polling place. However, solicitors do not have to be outside the 100 feet electioneering zone.

Petitions on Election Day

It is the formal opinion of the Wisconsin Elections Commission that soliciting signatures for a petition within 100 feet of a polling place on Election Day is NOT considered “electioneering,” provided that the petition is not related to the election at hand and does not attempt to influence the voter regarding that day’s vote. For example, petitions for the recall of an elected official, the institution of referenda, or other petitions to a governing body are not considered “election-related material” and do not violate the relevant statutes on electioneering. However, petitioning inside the building containing the polling place on Election Day is considered disruptive, and is prohibited. Petitioners should circulate their petitions outside of the polling place to not interfere with the access of voters entering and leaving the polling place. Election officials will order persons petitioning inside the

building containing the polling place to leave the building and summon law enforcement if necessary.

Wis. Stats. §§ 7.37(2), 12.03(4), 12.035(4)(a).

Exit Polls

1. Exit polls are permitted by Wisconsin law but must not interfere with the orderly conduct of the election.
2. Exit polls should be conducted outside of the polling place. Persons conducting exit polls must not interfere with the access of voters entering and leaving the polling place.
3. Electors should not be given the impression that their participation is required, and the exit poll should not resemble a sample ballot or otherwise imply that it is part of the election process.
4. Persons conducting exit polls are encouraged to contact the municipal clerk to discuss the conduct of exit polls, in order to take into consideration any unique circumstances created by the layout or configuration of a particular polling place.

Bake Sales

Bake sales and other activities not related to the election are permitted but not encouraged. If held, they should be set up in a separate room, or in a remote location, so that the orderly conduct of the election is not disrupted.

Closing the Polls

All polling places in Wisconsin close at 8:00 p.m. However, voters in line at the time the polls close must be permitted to vote. To officially close the polling place:

1. The chief inspector officially announces the closing of the polls.
2. The End of Line Officer stands behind the last voter in line at 8:00 p.m. to clearly identify who is entitled to vote. The End of Line Officer should be established by the municipal clerk prior to Election Day. The End of Line Officer may be an election inspector, election registration official, employee of the clerk, or police officer.

3. Once all the voters have cast their ballots, the polling place remains open to the public, and the process of reconciling poll lists, counting ballots, and completing the required forms begins.
4. The doors to the polling place must NOT be locked.

Anyone, including a candidate, has the right to observe the end of night activities such as reconciling poll lists, counting ballots, and the completion of forms.

Note: If the election inspectors are informed that a court has issued an order extending the hours that the polling place is open beyond 8:00 p.m., a voter entering the polling place after that time will have his or her ballot marked with the notation “Section 6.96.” The election inspectors should then make the same notation on the poll list next to the voter’s name. This enables ballots cast after the polls close pursuant to a court order to be removed from the count if the court order is set aside. Wis. Stat. § 6.78.

Frequently Asked Questions

1. *What should the election inspectors do if there are electioneering signs in or around the polling place on Election Day?*

Election officials are responsible for enforcing the electioneering law on public property within 100 feet of any building entrance a voter may use to access the polling place. The municipal clerk should be contacted if there are any problems relating to enforcement.

Any building that houses a polling place is considered public property on Election Day; including VFW posts, churches, senior centers, banks, etc. It is recommended that the municipal clerk notify the owners that the polling place is considered public property at the time they enter into an agreement to use the property as a polling location. The clerk should also inform owners that, on Election Day, campaign materials will be removed from areas leading to and from the location of the polling place within the building and on public property within 100 feet of the building entrances.

2. *Can anyone photograph and/or videotape the activities taking place in the polling place?*

Voters may photograph or videotape themselves or their ballots if it is not disruptive. Members of the media and polling place accessibility auditors may

use photography and/or video cameras in the polling place during voting hours. The use of photography and video cameras by observers is prohibited.

3. *Do voters have to remove campaign buttons or t-shirts?*

Unless the election inspectors receive a complaint about someone's attire or it is disturbing the conduct of the election, it is best to permit the voter to cast his or her ballot and leave. If someone is planning to stay as an observer, he or she must remove the campaign attire if the attire is intended to influence voting at the election.

BALLOTS

Absentee Ballots

~~Any registered elector in the state of Wisconsin has the right to cast an absentee ballot. Absentee voting provides an opportunity for a voter who is unable or unwilling to appear at the polling place to cast their ballot. Any registered voter in the state of Wisconsin may exercise the option to vote by absentee if, for any reason, they are unable or unwilling to appear at their polling place on election day. Wis. Stat. § 6.85(1).~~ For this reason, special procedures are in place to protect the elector and the integrity of the process.

On Election Day, the municipal clerk delivers absentee ballots to the polling place or alternate absentee canvassing site. The ballots are delivered in a sealed envelope or container that bears the name and official title of the clerk and the language found in Wis. Stat. § 6.88(1). (EL-125 Absentee Ballot Carrier). The EL-125 should be attached to any container which is used to transport absentee certificate envelopes to the polling place. The certificate may be made in the form of an envelope, or the certificate may be affixed to another container, such as a box, which may be used to transport absentee certificate envelopes to the polling place. Once the container has been sealed, it cannot be opened again until the contain or envelope is in the same room where votes are being cast at the polls during polling hours on Election Day, or at a meeting of the municipal board of canvassers under § 7.52.

The establishment of alternate absentee canvassing sites (also known as Central Count Absentee) requires approval by the municipalities governing body and the Wisconsin Elections Commission

All absentee ballots must be processed in the same room votes are cast or at an alternate absentee canvassing location so that any interested observer is able to hear the public announcement of the names of the absentee electors.

Any observer who is a qualified elector of Wisconsin, including an election inspector can challenge an absentee elector's ballot the same as if the elector were voting in person. The procedures for challenging an elector's ballot are the same as the challenge procedure in person. See the "Challenging Electors" section of this manual for the complete challenge procedure.

Procedure

Election inspectors may process absentee ballots at any time between the opening and closing hours of the polling place, except absentee certificate envelopes marked “To Be Rejected.” “To Be Rejected” absentee certificate envelopes feature one or more of the following errors: no voter signature, no witness signature, no witness address, no witness printed name, both special voting deputies failed to sign, or no certification language. Wis. Stat. § 6.88(3)(b). Set these aside and process them after 8 p.m. on Election Day ~~to give the voter an opportunity to correct these errors. Wis. Stat. § 6.88(3)~~. See also “Voter Correction of Incomplete Absentee Certificate Envelopes” on page XX for further information.

Absentee ballots may not be counted until after the polls close.

Processed absentee ballots are placed in the ballot box or optical scan equipment and are counted when all the other ballots are counted. Ballots are considered counted once the polls have closed and all ballots are tabulated, either by equipment or by a hand tally. Election inspectors do not need to stand in the voter line to process absentee ballots.

If the election inspectors have reliable proof that an elector has died before Election Day, the absentee ballot must be rejected.

[Absentee Ballot Certificate Envelopes \(EL-122, EL-122M, EL-122SVD, EL-122SP\)](#)

There are four variations of the Absentee Ballot Certificate Envelope:

1. EL-122 Standard Absentee Certificate Envelope, used in most situations.
2. EL-122M Absentee Certificate Envelope, used for military and permanent overseas voters.
3. EL-122SVD, used for absentee voting conducted by Special Voting Deputies in residential care facilities and retirement homes.
4. EL-122SP, used for voters in SVD-eligible facilities that are not served by SVDs.

Overview of the Absentee Certificate Envelope

Step 1: The clerk or voter must complete the voter information section. The information can be provided using a label or handwritten.

Official Absentee Ballot Certificate & Application			
CLERK OR DEPUTY >> Initial Here >>		In-person absentee voter showed valid POI _____	Voter exempt from or met POI requirement _____
STEP 1	CLERK OR VOTER must complete this part		
Voter Information		Election Date (mm/dd/yyyy) _____/_____/_____	
<input type="checkbox"/> City Name: <input type="checkbox"/> Village Name: <input type="checkbox"/> Town Name:			
Name (Last, First, Middle)			
Street Address			
County		City	
State	Zip	Ward	Ald. Dist


Step 2: The voter must complete the certification section by signing where highlighted. If the voter needed assistance signing their name to the certification, the assistor signs the voter's name and signs their own name below in the assistor's field.

STEP 2	VOTER must complete this part
	<p>I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that:</p> <ul style="list-style-type: none"> • I am a resident of the ward or of the aldermanic district of the municipality in the county of the state of Wisconsin indicated hereon OR I am entitled to vote in the ward or aldermanic district at the election indicated hereon • I am not voting at any other location in this election • I am unable or unwilling to appear at the polling place in the ward on Election Day, or I have changed my residence within the state from one ward to another less than 28 days before the election • I displayed the ballot unmarked to the witness and in the presence of no other person marked the ballot and enclosed and sealed it in this envelope in a manner that no one but myself and an assistant under s. 6.87 (5), if I requested assistance, could know how I voted • I requested this ballot and this is the original or a copy of that request
	<p>X</p> <p>Voter Signature</p> <p>Certification of Assistant (if applicable) I certify that the voter is unable to sign their name due to a disability and that I signed the voter's name at the direction and request of the voter</p>
	<p>Assistant Signature</p>

Step 3: The witness must complete this section by signing and printing their name and providing their address (street number, street name, municipality).

STEP 3 **WITNESS must complete this part**

I the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that:



**WITNESS
REQUIRED**

- I am an adult U.S. citizen
- The above statements are true and the voting procedure was executed as stated
- I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk).
- I did not solicit or advise the elector to vote for or against any candidate or measure

X

Witness Signature

Witness Printed Name

Witness Address (Number, Street Name, City)

Absentee Certificate Envelope for Other Categories of Absentee Voters

EL-122M for Military and Permanent Overseas Voters. In step 2 of this envelope, voters must include their date of birth. The witness is required to be an adult but does not have to be a U.S. citizen.

STEP 2 **VOTER must complete this part**

I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that:

- I am a resident of the ward or of the aldermanic district of the municipality in the county of the state of Wisconsin indicated hereon **OR** I am entitled to vote in the ward or aldermanic district at the election indicated hereon
- I am not voting at any other location in this election
- I am unable or unwilling to appear at the polling place in the ward on Election Day, or I have changed my residence within the state from one ward to another less than 28 days before the election
- I displayed the ballot unmarked to the witness and in the presence of no other person marked the ballot and enclosed and sealed it in this envelope in a manner that no one but myself and an assistant under s. 6.87 (5), if I requested assistance, could know how I voted
- I requested this ballot and this is the original or a copy of that request

X

Voter Signature

Date of Birth / /

(mm/dd/yyyy)

Certification of Assistant (If applicable)
 I certify that the voter is unable to sign their name due to a disability and that I signed the voter's name at the direction and request of the voter

Assistant signature

[EL-122SVD for use by Special Voting Deputies conducting absentee voting in residential care facilities and retirement homes. In step 3 of this envelope, the signatures and addresses of both SVDs are required in the witness section.](#)

STEP 3 SVD must complete this part I the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that:	
<ul style="list-style-type: none"> • I am an adult U.S. citizen • I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). 	<ul style="list-style-type: none"> • I did not solicit or advise the elector to vote for or against any candidate or measure. • I further certify that the name and address of the voter is correct as shown
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Deputy #1 Signature	Deputy #2 Signature
Deputy #1 Printed Name	Deputy #2 Printed Name
_____	_____
_____	_____
Deputy #1 Address (Number, Street Name, City)	Deputy #2 Address (Number, Street Name, City)

[EL-122SP for use by voters residing in SVD-eligible care facilities and retirement homes not served by SVDs. In step 4 of this envelope, the authorized representative of the care facility signs this section or the voter includes photo ID. The care facility representative may also serve as the witness.](#)

STEP 4 CARE FACILITY REP. must complete this part I certify I am an authorized representative of the facility listed. I further certify that this facility is registered or certified as required by law, that the above voter is a resident, and I verify that the name and address of the voter described above are correct.
<input checked="" type="checkbox"/>
Care Facility Authorized Representative Signature
Name of Facility

Processing Absentee Ballots

To process absentee ballots, the following procedure should be followed:

1. Open the large carrier envelopes or containers (EL-125) containing the absentee ballots.
2. Remove each Absentee Certificate Envelope (EL-122, EL-122M, EL-122 SVD, and EL-122 Special) and announce each absentee elector's name and address.
3. Check the Ineligible Voter List to determine if the elector is ineligible to vote due to a felony conviction.
 - a. If the elector's name matches a name on the Ineligible Voter List, continue processing the absentee ballot as described below, but issue a challenge prior to placing the ballot in the ballot box or optical scanner. (See the "Challenging Electors" section of this manual.)
 - b. If the certificate envelope is marked "ineligible to vote per Department of Corrections," but the elector's name no longer appears on the Ineligible Voter List, issue a challenge anyway and document the incident on the Inspectors' Statement (EL-104).
 - c. The election inspectors shall make a reasonable effort to contact the WEC to confirm an elector's felon status before processing the absentee ballot.

Wis. Stat. § 6.88(3)(c).

4. Carefully review the certificate envelope to determine that:
 - a. The envelope is not open.
 - b. The envelope has not been opened and then resealed.
 - c. The signature of the elector appears on the certificate.
 - d. The certificate contains the signature of one witness who is an adult, U.S. citizen (if they are a military or overseas voter, the witness must be an adult, but does not need to be a U.S. citizen). The witness must

include their address and it can be an address outside of the United States. Wis. Stat. § 6.87(4)(b).

Note: If the envelope has been opened or resealed, the signature of either the elector or the witness is missing or the witness' [printed name or](#) address is missing, the absentee ballot certificate envelope is insufficient, and the absentee ballot must be rejected. If there are no clerk initials on the envelope do not reject the ballot but note the omission on the EL-104 and process normally.

5. If the Absentee Certificate Envelope (EL-122) is found to be **insufficient**:

- a. Do not open the envelope.
- b. Do not issue a voter number.
- c. Mark the envelope “Rejected ballot #_” (beginning with the number 1). Write the reason for rejection on the envelope.
- d. List the elector’s name, identifying serial number of the rejected ballot (see “c.” above), and the reason for rejection on the Inspectors' Statement (EL-104).
- e. Record the reason for rejection next to the elector’s name on the Absentee Ballot Log.
- f. Record the ballot as not counted on the Absentee Ballot Log (EL-124).
- g. Place the unopened certificate envelope in the Certificate of Rejected Absentee Ballots (EL-102) brown carrier envelope.

Wis. Stat. § 6.88(3)(b).

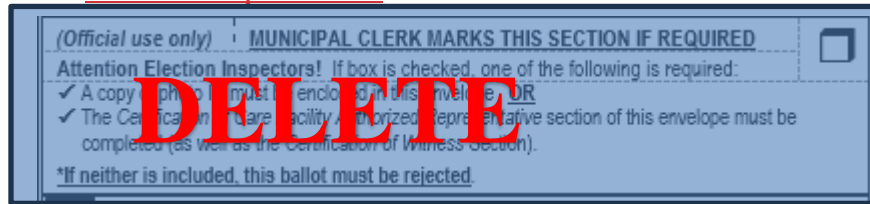
6. If the Absentee Certificate Envelope indicates that proof of identification or the Certification of Authorized Care Facility Representative is required, it is the responsibility of the election inspector to ensure that the elector included proof of identification along with the absentee ballot or completed the appropriate certification section before the ballot may be counted. In these cases, the certificate envelope will be an EL-122 [SPsp](#), which contains the Authorized Care Facility Representative section. Follow these procedures:

a. Determine if the Certification of Authorized Care Facility Representative is completed.

i.a. Name of Facility

i. Signature of Representative (may be the same person as the witness)

ii. Name of Facility. This should have already been completed by the municipal clerk.

A form titled "STEP 4 CARE FACILITY REP. must complete this part". The text reads: "I certify I am an authorized representative of the facility listed. I further certify that this facility is registered or certified as required by law, that the above voter is a resident, and I verify that the name and address of the voter described above are correct." Below this is a signature line with an "X" and the text "Care Facility Authorized Representative Signature" highlighted in yellow. At the bottom is a line for "Name of Facility".

b. If complete, continue to process the absentee ballot as normal.

c. If the certification of Authorized Care Facility Representative section is not completed, open the Absentee Certificate Envelope to check if the missing documentation is included in the envelope. Acceptable forms of proof of identification may be found in the “Electors” section of this manual.

i. If the missing documentation is in the envelope, the election inspector continues to process the absentee ballot.

OR

ii. If the missing documentation is NOT in the envelope, the absentee ballot is rejected. Do not issue a voter number.

Wis. Stat. § 6.875(4).

NOTE: If the ballots being processed are for a **partisan primary** and your municipality uses **traditional hand-count paper ballots**, please see *Procedure for Processing Sufficient Hand-Count Paper Ballots at a Partisan Primary*, which follows this section.

7. If the Absentee Certificate Envelope (EL-122) is found to be **sufficient**:

- a. Carefully remove the ballot(s) from the certificate envelope.
- b. Examine the contents of the envelope to assure that no more than the proper number of ballots is enclosed:
 - i. If a certificate envelope contains more than one of the same types of ballot and both ballots are marked, both ballots must be rejected.
 1. Do not issue a voter number.
 2. Mark each of those same type ballots “rejected.”
 3. Return the rejected ballots to the absentee voter’s certificate envelope and mark it “Rejected Ballot # ___” (beginning with ‘1’) and list the reason.
 4. Note on the Inspectors' Statement (EL-104) that these ballots were rejected because the absentee voter marked more than one ballot of the same type. Indicate the serial number (see “3” above) issued for the unused ballot. If hand-count, paper ballots are used, indicate the type of ballot (i.e. state, county, municipal or school district).
 5. Place the rejected certificate envelope in the Certificate of Rejected Absentee Ballots (EL-102) brown carrier envelope.
 - ii. If a certificate envelope contains more than one ballot of the same type, but only one is marked (i.e. the other ballot(s) is blank), the marked ballot CAN be accepted.
 1. Issue a voter number.

2. Place the marked ballot in the ballot box.
 3. Write “Unused ballot #__” (beginning with ‘1’) on the unmarked ballot and place it in the absentee voter’s certificate envelope.
 4. Note on the Inspectors’ Statement (EL-104) that there was more than one ballot of the same kind, but only one of the “same type” ballots were marked. Indicate the serial number (see “3” above) issued for the unused ballot.
 5. Place the Absentee Certificate Envelope (EL-122) in the Used Certificate Envelopes of Absentee Electors (EL-103) white carrier envelope.
- c. Check the ballot(s) for the initials of the issuing clerk.
- i. If the ballot does not contain the initials of the clerk or deputy clerk, do NOT reject the ballot solely for that reason.
 1. Issue a voter number and record the voter number on the voter list. Document that this was an absentee ballot (red “A” next to voter number). Also, record on the Absentee Ballot Log that the ballot was counted.
 2. Place the ballots in the appropriate ballot box or voting equipment.
 3. Place the used certificate envelope in the Used Certificate Envelopes of Absentee Electors EL-103 white carrier envelope.
 4. Note on the Inspectors’ Statement (EL-104) that the clerk’s initials were missing.
 5. Record as counted on the Absentee Ballot Log (EL-124)

Wis. Stat. § 6.88(3)(a).

NOTE: Elections inspectors do not need to stand in line with voters in order to process absentee ballots.

Procedure for Processing Sufficient Hand-Count Paper Ballots at a Partisan Primary

8. If the Absentee Certificate Envelope (EL-122) is found to be **sufficient**:

- a. Carefully remove the ballot(s) from the certificate envelope.
- b. Examine the contents of the envelope to assure that only the proper number of ballots is enclosed:
 - i. If a certificate envelope contains more than one marked ballot, and the marked ballots are for different parties, this is a crossover vote.

Though a crossover vote cannot be counted, the voter is still credited for participating in the election. This means that the voter is issued a voter number, the crossover ballots are placed in the ballot box and the ballot is recorded as “counted” on the Absentee Ballot log.

1. **Issue a voter number** and record the voter number on the voter list. Document that this was an absentee ballot (red “A” next to voter number.)
2. Staple the marked ballots together and place in the ballot box, or ensure the ballots remain together in some other fashion.
3. Write “crossover” on the certificate envelope and mark it “Crossover Ballot #__” (beginning with ‘1’) and place the certificate envelope in the Used Certificate Envelopes of Absentee Electors (EL-103) white carrier envelope.
4. Note on the Inspectors' Statement (EL-104) that voter number_ cast a crossover vote. Indicate the serial number (see 3 above) for the crossover ballots.
5. Record as counted on the Absentee Ballot Log (EL-124).

- ii. If a certificate envelope contains more than one marked ballot and the ballots are for the same party, both ballots are rejected.
 6. Mark both ballots “rejected.”
 7. Return the rejected ballots to the absentee vote’s certificate envelope and mark it “Rejected Ballot #__” (beginning with ‘1’) and list “voted on 2 ballots of the same party” as the reason.
 8. Place the rejected certificate envelope in the Certificate of Rejected Absentee Ballots (EL-102) brown carrier envelope.
 9. Note on the Inspectors’ Statement (EL-104) that the ballots were rejected because the voter voted on 2 ballots of the same party. Indicate the serial number (see 2 above) for the rejected ballots.
 10. Record as not counted on the Absentee Ballot Log (EL-124).
 11. Do not issue a voter number.
- iii. If a certificate envelope contains more than one ballot but only one ballot is marked (i.e. the other ballot is blank), the marked ballot CAN be accepted.
 1. Issue a voter number and record the voter number on the voter list. Document that this was an absentee ballot (red “A” next to voter number).
 2. Place the marked ballot in the ballot box.
 3. Write “unused ballot #__” (beginning with ‘1’) on the unmarked ballot and return it to the certificate envelope.
 4. Place the certificate envelope in the Used Certificate Envelopes of Absentee Electors (EL-103) white carrier envelope.

5. Note on the Inspectors' Statement (EL-104) that there was more than one ballot but only one ballot was marked. Indicate the serial number (see 3 above) issued for the unused ballot.
 6. Record as counted on the Absentee Ballot Log (EL-124).
- c. Check the ballot contains the initials of the issuing clerk.
- i. If the ballot does not contain the initials of the clerk or deputy clerk, do NOT reject the ballot solely for that reason.
 1. Issue a voter number and record the voter number on the voter list. Document that this was an absentee ballot (red "A" next to voter number). Also, record on the Absentee Ballot Log that the ballot was counted.
 2. Place the ballot in the ballot box.
 3. Place the used certificate envelope in the Used Certificate Envelopes of Absentee Electors (EL-103) white carrier envelope.
 4. Record on the Inspectors' Statement (EL-104) that clerk's initials were missing.
 5. Record as counted on the Absentee Ballot Log (EL-124).

NOTE: Elections inspectors do not need to stand in line and go through the motions of a voter in order to process absentee ballots.

9. If the Absentee Certificate Envelope (EL-122) is determined "to be rejected," because the signature of elector or witness is missing, the witness address is missing or if the envelope is open or appears to have been resealed, see "Voter Correction of Incomplete Absentee Certificate Envelopes" on page XX. ~~-a voter may correct the certificate envelope at the polling place/central count absentee site.~~

~~If a voter appears to correct their absentee certificate envelope:~~

~~a. The election inspectors shall issue a new certificate envelope to the voter.~~

~~b. The voter must open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope.~~

~~i.a. The voter may NOT remove the ballot from the voting area.~~

~~ii. The original witness must be present.~~

~~—The elector and witness sign the certificate envelope and the witness provides his or her address.~~

~~iii.i. The original witness must be present.~~

~~—An election inspector may NOT serve as the witness.~~

~~iv.~~

~~e. The original certificate envelope is then destroyed.~~

~~d. The election inspector documents that a correction was made, and the ballot accepted on the Absentee Ballot Log (EL-124).~~

~~Wis. Stat. § 6.88(3)(b).~~

Voter Correction of Incomplete Absentee Certificate Envelopes

If the information on the absentee certificate envelope is incomplete, or if the certificate is missing, the clerk “may return the ballot to the elector... whenever time permits the elector to correct the defect and return the ballot” so that the municipal clerk can cause the completed ballot to be delivered to the proper polling place by 8 p.m. on Election Day. Wis. Stat. § 6.87(9). If the municipal clerk returns the ballot to the elector under § 6.87(9), the ballot can be returned “inside the sealed envelope when an envelope is received, together with a new envelope if necessary...” Wis. Stat. § 6.87(9).

Sec. 6.87(9) does not limit how a municipal clerk should “return the ballot” to the elector. A clerk may chose to do this by returning it in the mail, or by returning it to the voter in person in the clerk’s office or at the polling place on Election Day.

- **Option 1:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.

- Option 2:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” When voting absentee, an elector must mark, fold, and deposit their ballot into the certificate envelope in the presence of a witness, all in a manner that will not disclose how the elector’s vote is cast. Wis. Stat. § 6.87(4)(b)1. Statute does not require the witness to verify any of the voter’s information on the certificate envelope. Wis. Stat. § 6.87(4)(b)1. If the voter is correcting information in the “Voter Information” section of the original certificate envelope (to fill in a missing required field, for example), the original witness does not need to be present to witness the voter correcting the defect under § 6.87(9). If the municipal clerk has provided the voter with a new envelope, the elector must request that their original witness re-complete the witness portion of the absentee envelope. The original witness must be used because they were the one who witnessed the voter marking, folding, and depositing the ballot into the envelope. A new witness cannot be used because there is no way for a new witness to witness the elector marking their ballot if an elector is attempting to correct a defect under § 6.87(9). If the witness address field is incomplete or insufficient, the voter and their original witness may go together to the clerk’s office or polling place for the witness to correct the defect.¹ The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.
- Option 3:** If a ballot is returned by the municipal clerk to the elector under § 6.87(9), it is incumbent upon the elector to “correct the defect.” When voting absentee, an elector must mark, fold, and deposit their ballot into the certificate envelope in the presence of a witness, all in a manner that will not disclose how the elector’s vote is cast. Wis. Stat. § 6.87(4)(b)1. Statute does not require the witness to verify any of the voter’s information on the certificate envelope. Wis. Stat. § 6.87(4)(b)1. If the voter is correcting the original certificate envelope (to fill in a missing required field, for example), the original witness does not need to be present to witness the voter correcting the defect under § 6.87(9). If, however, the municipal clerk has provided the voter with a new envelope, the elector must request that their original witness re-complete the witness portion of the absentee envelope. The original witness must be used because they were the one who witnessed the voter marking, folding, and depositing the ballot into the envelope. A new witness cannot be used because there is no way for a new witness to witness the elector marking their ballot if an elector is attempting to correct a defect under § 6.87(9). If the witness address field is incomplete or insufficient, the voter and their original witness may go together to the clerk’s office or polling place for the witness to correct the defect.² If the voter

¹ **Litigation Note:** The definition of “witness address” is the subject of ongoing litigation in two Wisconsin circuit courts. *Rise Inc., et al v. Wis. Elections Comm’n et al* (2022CV002446); *League of Women Voters v. Wis. Elections Comm’n et al* (2022CV002472). Although decisions in both cases were issued on January 2, 2024, the litigation, including the issuance of final injunctive relief and appeal schedule, is still ongoing. Accordingly, the Commission is not able to provide guidance pursuant to either case in the January 2024 version of the manual. However, the manual will be updated to be consistent with the final orders in either or both cases.

² **Litigation Note:** The definition of “witness address” is the subject of ongoing litigation in two Wisconsin circuit courts. *Rise Inc., et al v. Wis. Elections Comm’n et al* (2022CV002446); *League of Women Voters v. Wis. Elections Comm’n et al* (2022CV002472). Although decisions in both cases were issued on January 2, 2024, the litigation, including the issuance of final injunctive relief and appeal schedule, is still ongoing. Accordingly, the Commission is

corrects the certificate envelope in the clerk’s office, the clerk may issue a new certificate envelope to the voter. Wis. Stat. § 6.87(9). If the voter corrects the “Voter Information” section of the certificate envelope at the polling place, they may only correct the error—they may not vote a new ballot. An election inspector at the polls may issue a new envelope, if necessary, pursuant to the clerk’s authority under § 6.87(9). The voter should open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope. The voter may NOT remove the ballot from the polling place. If a new certificate envelope is issued and completed, the original defective certificate envelope must be destroyed, but still set aside to be accounted for later in the event of a recount. The clerk or election inspector should document that a correction was made (and if the ballot was accepted on Election Day) on the Absentee Ballot Log (EL-124). The voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day.

Municipal clerks should make every effort to review absentee certificate envelopes as they receive voted absentee ballots from voters so that they can choose to exercise their authority under § 6.87(9) or § 6.88(3) ahead of Election Day. If exercising authority under § 6.88(3), the clerk should label missing and no certificate envelope ballots as “To Be Rejected,” and keep them separate from the rest of the absentee ballots when delivering to the polling place.

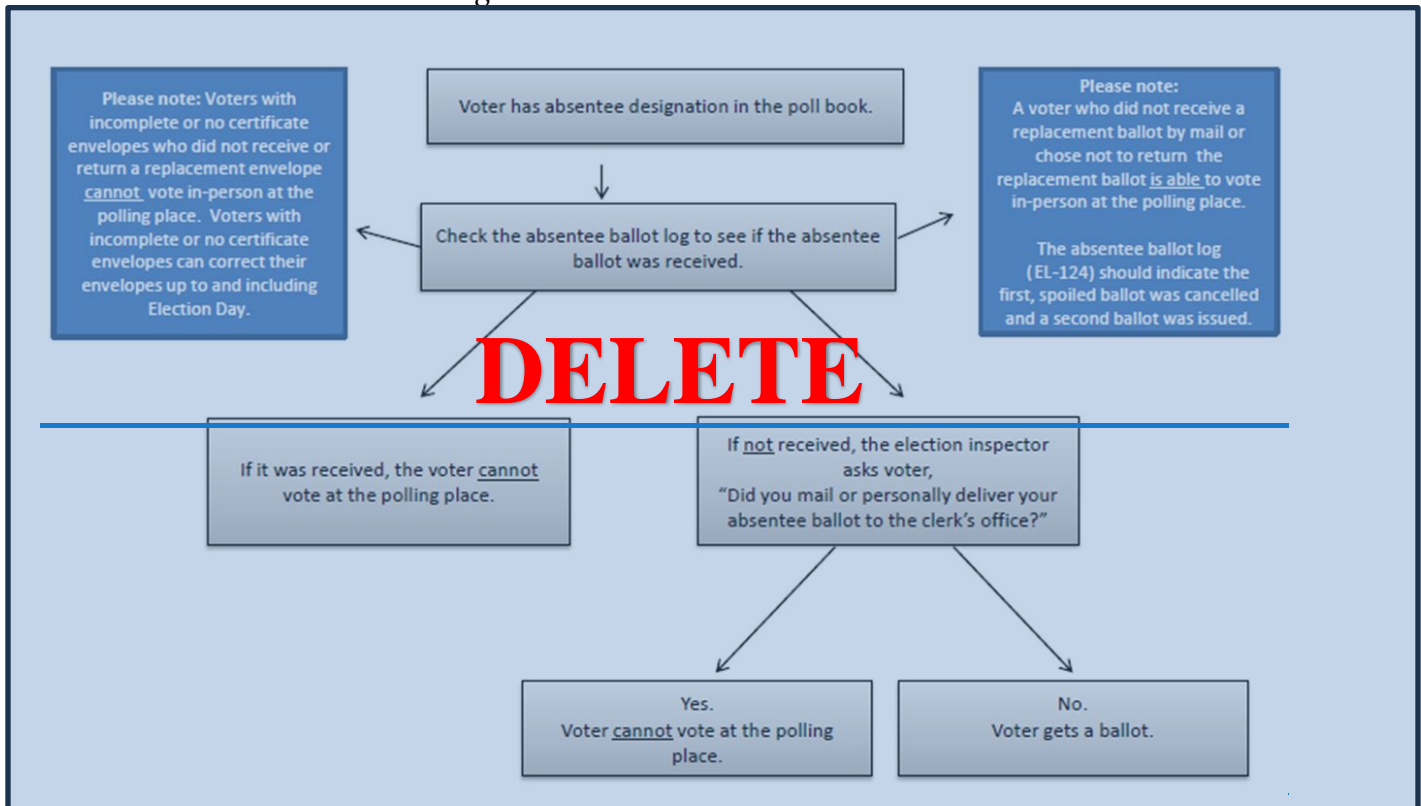
However, there may be some instances in which an election inspector notices an incomplete or insufficient absentee certificate while reviewing and processing absentee ballots at the polling place on Election Day. If the election inspector notices that an absentee certificate is incomplete or insufficient, the ballot must be set aside to allow the elector an opportunity to correct the defect and return the ballot under § 6.87(9).

There may be some instances in which time does not permit an elector to correct the defect and return the ballot by 8 p.m. on Election Day. Wis. Stat. § 6.87(9). In that instance, if the certification is still insufficient, the election inspector “shall not count the ballot.” Wis. Stat. § 6.88(3)(b). If a ballot is rejected on this ground, an inspector must write “rejected, insufficient certificate” on the back of the ballot. Wis. Stat. § 6.88(3)(b). The rejected ballot should then be reinserted into the certificate envelope in which it was delivered, and securely seal both in an envelop marked for rejected absentee ballots. Wis. Stat. § 6.88(3)(b). All other procedures specified by § 6.88(3)(b) should always be followed when rejecting absentee ballots for any reason.

The clerk should document any certificate errors on the Absentee Ballot Log (EL-124).

not able to provide guidance pursuant to either case in the January 2024 version of the manual. However, the manual will be updated to be consistent with the final orders in either or both cases.

Absentee Voters at the Polling Place



Election inspectors should follow these procedures if a voter with an absentee designation in the poll book comes to the polling place to vote on Election Day, in addition to the procedures outlined in the Electors section.

Municipalities must track absentee ballots on the pre-printed poll list. The clerk shall also provide each polling place an Absentee Ballot Log (EL-124).

The absentee notation on the pre-printed poll list indicates that an absentee ballot was issued to the voter. The notations **may or may not** indicate that the ballot was returned.

1. If an individual noted as “absentee” appears at the polling place, the inspectors should check the Absentee Ballot Log (EL-124) to determine if the ballot has been returned.
 - a. If the absentee ballot has been returned and there are no errors that would cause the ballot to be rejected, the voter may not vote at the polling place.

b. If it has been returned and there are errors that would cause the ballot to be rejected, see “Voter Correction of Incomplete Absentee Certificate Envelopes” on page XX. ~~the voter may only correct the error. The voter may NOT vote a new ballot at the polling place.~~

~~i. The election inspectors shall issue a new certificate envelope to the voter.~~

~~ii. The voter must open the original certificate envelope, verify their ballot, and seal the ballot in the new certificate envelope.~~

~~iii. The voter may NOT remove the ballot from the voting area.~~

~~iv. The original witness must be present.~~

~~v. If missing, tThe elector and witness sign the certificate envelope and the witness provides any other missing information, such as printed name and address. provides his or her address.~~

~~vi. The election inspectors may NOT serve as the witness (the original witness must be present).~~

~~vii. The original certificate envelope is then destroyed.~~

~~viii. The election inspector should document that a correction was made, and the ballot accepted on the Absentee Ballot Log (EL-124).~~

c. If the absentee ballot has not been returned, the election inspectors ask the voter “Did you mail or personally deliver your absentee ballot to the clerk’s office?”

i. If “yes,” the voter cannot vote at the polling place.

ii. If “no,” the voter is issued a ballot if otherwise qualified.

1. If an absentee ballot is later received for that voter, the elector’s absentee ballot would be processed as a rejected absentee ballot and the clerk contacted immediately.

Processing Overvoted and Crossover Voted Ballots

The use of the two procedures outlined below will be determined by whether your municipality allows for use of the override function on the voting equipment in the event of a crossover voted or overvoted ballot.

Municipalities that do not Allow Use of the Override Function

If your municipality uses electronic tabulation equipment and *does not allow* for the use of the override function in the event of an overvoted or crossover voted ballot, those ballots may have to be remade by election inspectors at the polls on Election Day.

This guidance only applies to municipalities that use electronic tabulation equipment and *do not allow for use of the override function*. Instructions for processing overvoted and crossover voted ballots using the override function can be found later in this section of the manual. This information does not apply to municipalities that use hand count paper ballots. Hand counted paper ballots do not need to be remade as there is no electronic tabulator making the call on how to count it.

1. Remaking Ballots with Overvotes

Election inspectors may be required to remake ballots with overvotes. These are ballots with at least one instance in which the elector has voted for more than the maximum number of selections allowed in a contest.

For Election Day voters, election inspectors instruct the elector of the overvote error and provide them the opportunity to spoil their ballot and be issued a new ballot. A voter may be issued up to three ballots. If the voter refuses to vote a new ballot, two election inspectors must remake the ballot so the electronic tabulator will accept it. On a new ballot, election inspectors transfer all votes from the overvoted ballot in which the voter's intent can be determined. No votes are transferred for the overvoted contest, unless voter intent can be determined. This process is also employed for absentee ballots that contain an overvoted office.

2. Remaking Ballots with Crossover Votes

At a partisan primary, election inspectors may be required to remake ballots with crossover votes. These are ballots with votes in more than one political party column.

A voter who selects a party preference and then votes in more than one party's primary will not receive a warning or other prompt from the electronic tabulator regarding crossover votes. In this situation, only votes cast within the party column selected in the party preference section will be tabulated. If the voter fails to select a party preference and then votes in more than one party's primary, the electronic tabulator should notify the voter of a crossover vote.

Procedure

To remake a ballot, the following steps should be followed:

1. At least two election inspectors (if party-affiliated inspectors are present, use one of each party) must participate in this process.
2. Election inspectors shall announce to observers, if present, that a ballot is being remade and the reason for doing so.
3. Note and select a reason for remaking the ballot in the endorsement section of the ballot.

For Official Use Only	
<i>Inspectors: Identify ballots required to be remade.</i>	
Reason for remaking ballot:	
<input type="checkbox"/>	Overvoted
<input type="checkbox"/>	Damaged
<input type="checkbox"/>	Other
Original Ballot No. or Duplicate Ballot No.	
_____	_____

- a. “Overvoted” ballots are ballots with at least one instance in which the elector has voted for more than the maximum number of selections allowed in a contest.
- b. “Damaged” ballots include ballots in which the voter circled names on the ballot rather than marking the arrows or ovals and ballots mutilated by postal equipment.
- c. “Other” ballots include ballots emailed or faxed to a voter and ballots accessed and completed by a military or overseas elector through MyVote Wisconsin.

4. These ballots are labeled “Original Ballot # (serial number)” and “Duplicate Ballot # (same serial number)” in the endorsement section of the ballot. Remade ballots are issued a sequential serial number, starting with 1, regardless of the reason the ballot was remade. These ballots are labeled: original ballot number, duplicate ballot number, same serial number.
5. Transfer votes based on voter intent from the original ballot to the duplicate ballot so the electronic tabulator will accept the ballot. An overvoted contest on the original ballot is left blank on the duplicate ballot, unless voter intent can be determined. The duplicate ballot for a crossover voted original ballot is a blank ballot for municipalities with a DS200 or M100 electronic tabulator.
6. Describe on the Inspectors’ Statement (EL-104) why the ballot had to be remade.
 - Use a code of “OV” to identify overvoted ballots.
 - Use a code of “DM” to identify damaged ballots.
 - Use a code of “OT” to identify ballots remade for other reasons.
7. The “duplicate” ballots are inserted into the tabulating device.
8. The original ballots are bundled together, marked and placed in the “Original Ballots Envelope.”

9. The “Original Ballots Envelope” is placed in the ballot container.

Wis. Stats. §§ 6.85 (2)(b)(1), (2), (3).

Municipalities that Allow for the Use of the Override Function

If the voting equipment is programmed to permit the use of the override function to tabulate overvoted ballots and ballots with crossover votes, that function may be used instead of remaking ballots for which the elector’s intent regarding the contest(s) in question cannot be determined. To avoid confusion and any complications during a recount, Elections Commission staff recommends all ballots at the polling place be treated uniformly, either by remaking the ballot or using the override function, as instructed by the municipal clerk.

An **overvoted** ballot is a ballot with at least one contest in which the elector has voted for more than the maximum number of selections allowed. A ballot with a **crossover** vote is a ballot where the voter has not selected a party preference and has voted in more than one party, which is prohibited by state law. When programmed to use the override function, the voting equipment will display a warning message after a voter inserts an overvoted ballot or a ballot with crossover votes into the machine. An election inspector should be assigned to monitor the tabulation equipment at all times that voters are inserting ballots into the machine.

There are currently several different types of tabulation equipment in use in Wisconsin and each piece of equipment displays a different notification when an overvoted or crossover voted ballot is inserted into the machine. The lack of standard content for notifications across different equipment creates the potential for voter confusion and reinforces the need for election officials to be familiar with the notification screens and the impact on a ballot if the override function is used. A poll worker should monitor the use of the equipment and be able to explain to the voter that votes for at least one ballot contest will not be counted if the voter decides to cast an overvoted or crossover voted ballot.

Below are two separate procedures for using the override function when processing an overvoted ballot or a ballot with crossover votes, depending upon whether it is an absentee ballot or one that is being cast while the voter is present.

Procedure: Overvoted and Crossover Voted Absentee Ballots

1. The election inspector inserts the ballot without inspection into the tabulation equipment and the machine displays the warning message.
2. The inspector selects the option to return the ballot.
3. The inspectors review the ballot to attempt to determine the voter's intent for the contest or contests in question. For example, a stray mark could have mistakenly caused the machine to identify the ballot as overvoted or crossover voted.
 - a. If voter intent can be determined, the ballot is remade to correct the error for the contest(s) in question and include all other votes using the process outlined in the Election Day Manual.
 - b. If voter intent cannot be determined, continue to Step 4.
4. The inspector reinserts the ballot into the tabulation equipment and casts the ballot using the override function.
5. The inspector makes a notation on the Inspectors' Statement (EL-104) to indicate that the override function was used to cast the ballot. The reason why the override function was used should also be included in this notation. The ballot is not marked.

Procedure: Overvoted and Crossover Voted Ballots When Voter is Present

1. The voter inserts the ballot into the tabulation equipment and the machine displays the warning message.
2. The election inspector assigned to monitor the tabulation equipment explains the notification to the voter.
 - a. Overvoted Ballot: Casting an overvoted ballot with the override function would result in no votes being counted for the overvoted contest(s) but votes for all other contests would be counted.
 - b. Crossover Voted Ballot: Casting a ballot that contains a crossover vote would result in no votes being counted for any partisan office but votes for all nonpartisan contests (if present) would be counted.
3. The voter is informed that they can spoil the ballot and mark another ballot (up to three ballots) OR cast the ballot as is.

- a. If the voter chooses to spoil the ballot, the election inspector selects the option to return the ballot, returns the ballot to the voter without examining it, and direct the voter to exchange the ballot at the ballot-issuing table for a replacement ballot.
 - b. If the voter wants the ballot cast as is, the inspector should first offer to use the option to return the ballot to the voter so that the voter may review the ballot before making the final decision. If the voter does not wish to examine the ballot, the election official casts the ballot using the override function. If the voter wishes to examine the ballot first, the voter or inspector selects the option to return the ballot and the voter determines whether to spoil the ballot or to have the election inspector cast it using the override function.
4. The inspector makes a notation on the Inspectors' Statement (EL-104) to indicate that the override function was used to cast the ballot. The reason why the override function was used should also be included in this notation. The ballot is not marked.

Wis. Stats. §§ 5.91(7), (12), 7.50(1)(b).

Counting Ballots

While counting votes occurs after the polls close, the process of counting is a public activity. Any interested person, including a candidate, may be present and observe the counting as long he or she does not interfere with the process. Election inspectors must pay careful attention to the detail of counting votes and recording vote totals.

Hand-Counted Paper Ballots

The procedure for counting paper ballots is as follows:

1. If there are multiple ballot boxes, open boxes one at a time.
2. Count the ballots in each box (without examining them) to determine the total number.
3. Determine if the number of ballots is equal to the number of voters.
 - a. Check to see that two or more ballots are not folded together.

- i. If two or more ballots are folded together, set them aside until the count is completed.
 - ii. Compare the total voter count and the number of ballots including the ballots that were set aside. To determine the total number of voters, see the “Reconciling the Poll List” section of this manual.
 - iii. If a majority of election inspectors agree that the ballots folded together were voted by the same person, the ballots are removed, marked with the reason for removal, set aside, and preserved.
- b. When the number of ballots is equal to or less than the number of voters, proceed with counting the ballots.
- c. If the number of ballots is greater than the number of voters, proceed as follows:
 - i. Before drawing down ballots, **be certain that there is no alternative reason for the ballot overage.**
 1. The issuance of the same voter number to two or more individuals, can explain why the number of ballots exceed the number of voters.
 2. In the case of two or more reporting units, if there are more ballots than voters for one reporting unit and less ballots than voters for the other reporting unit, but the total number of ballots for both units is equal to or less than the number of total voters, obviously voters were given the wrong ballot. This should be noted on the inspectors’ statement but does not warrant a drawdown.
 - ii. Ballots cast by challenged electors should have been issued a voter number and are included in the total number of voters.
 - iii. Place all ballots face up to check for blank ballots (blank ballots are ballots on which no votes were cast for any office or question). Blank ballots are marked, set aside, but preserved.

- iv. If the number of ballots still exceeds the number of voters, place the ballots face down and proceed to check initialing. Mark, set aside, but preserve any ballot not bearing the initials of two election inspectors, or any absentee ballot not bearing the initials of the municipal or a deputy clerk.
- v. If the number of ballots still exceeds the total number of voters recorded on the voter lists, separate the absentee ballots from the election-day ballots. Absentee ballots will either contain only one set of initials, either the municipal clerk's or a deputy clerk's, or two initials of special voting deputies.
- vi. If there are more absentee ballots than absentee voters, the absentee ballot are placed in the ballot box and one of the election inspectors publicly and without examination draws by chance the number of ballots equal to the excess number of ballots. Mark these ballots as "removed due to an excess number of absentee ballots." Set aside and preserve all ballots removed.
- vii. If there are more non-absentee ballots than voters, those ballots are placed in the ballot box and one of the election inspectors publicly and without examination draws by chance the number of ballots equal to the excess number of ballots. Mark these ballots as "removed due to an excess number of ballots." Set aside and preserve all ballots removed.
- viii. When the total number of ballots and the total number of electors shown on the voter lists agree, return the ballots, except for those that were removed and set aside, to the ballot box and mix.
- ix. Re-open the ballot box and count the ballots one at a time.

Wis. Stat. § 7.51(2)(e).

4. Count and record the votes on two separate Tally Sheets (EL-105).
Reconcile the tally sheets when the counting for each office is complete.
 - a. State statutes do not specify the manner for actually counting ballots. Here is the method recommended by the Elections Commission:

- i. One election official reads each ballot while a second election official observes, and two other election officials mark the votes using hash marks (/) on the Tally Sheets (EL-105).
 - ii. It is advisable to rotate these tabulation jobs among election officials after each office or separate ballot-type is counted. All election officials and tabulators should participate in the counting of ballots (unless a greeter was appointed, who may not participate). High school students serving as election inspectors may participate in the counting.
 - iii. When counting is complete the tally sheets are compared for accuracy and totals documented for each candidate.
- b. Determine if any of the ballots are “Defective.”
- i. A “Defective ballot” is a ballot for which a majority of the election inspectors agree that voter intent cannot reasonably be determined.
 - ii. These ballots are marked, set aside and preserved in an envelope marked “Original Ballots.”
 - iii. A defective ballot is labeled “Defective Ballot #__” (beginning with ‘1’) near or within the endorsement section of ballot.

Note: A ballot can be defective for some offices and valid for others. Only valid votes on each ballot are counted. The reason for the defect should be recorded on the Inspectors’ Statement (EL-104).

- c. Determine if any of the ballots are “Objected To.”
- i. An “Objected To” ballot is a ballot for which a majority of the election inspectors agree that voter intent can be determined, but at least one election inspector disagrees.
 - ii. These ballots are counted, marked, set aside and preserved in the Original Ballots envelope.
 - iii. An objected to ballot is labeled “Objected to Ballot #__” (beginning with ‘1’) near or within the endorsement section of

the ballot. The reason for the objection is recorded on the Inspectors' Statement (EL-104).

5. Announce the results of the votes cast at the polling place and prepare all election materials for delivery to the municipal clerk (see the "Documentation" section of this manual.) Do not seal the completed Tally Sheets in the ballot bag.
 - a. All ballot bags or containers should be sealed or secured by the chief inspector and another inspector.
 - b. When inspector appointments are by party affiliation, the inspector's affiliation must be different than that of the chief inspector.
 - c. The chief inspector and the inspector seal or secure the ballot bags or containers in such a manner that it is not possible to insert or remove a ballot from the bag or container.
 - d. The unique identifying number of any tag must be recorded on the Ballot Container Certificate (EL-101) and on the Inspectors' Statement (EL-104).

Optical Scan Ballots

1. Open the optical scan tabulating unit to remove any ballots from the auxiliary ballot box that were not entered into the tabulating unit. Enter them into the optical scan unit.
2. Ballots which were stored in the auxiliary ballot box because they were rejected when entered into the optical scan unit should be examined by two election officials (one representing each political party, if affiliated) to determine the cause for rejection. The two election officials make a duplicate ballot to correct the problem (see the "Remaking Ballots" section). The duplicate ballot is entered into the machine. The original ballot is preserved in the Original Ballots envelope.
3. Remove all write-in ballots from the write-in compartment (if equipment deflects ballots with write-in marks to the write-in compartment).
 - a. Tally write-in votes on duplicate Tally Sheets (EL-105).

- b. Do not reenter the ballots into the optical scan unit because the rest of the ballot has already been counted.
4. Examine the ballots from the main bin for write-in votes that were not separated by the machine. (There may be write-in votes where the elector did not make a mark or complete the arrow.)
 - a. Record write-in votes on the tally sheet.
 - b. This may require a change to the printout. If an elector completes the arrow or fills in the oval next to a candidate's name, and also writes in a candidate but fails to complete the arrow or fill in the oval next to the write-in blank, the machine will incorrectly count the vote for the candidate on the ballot. Write-in votes, even if the arrow/oval is not completed, should be counted instead of the vote for the candidate on the ballot if the write-in is a registered candidate. Therefore, the returns may need to be amended to reflect the correct number of votes. In this case, subtract a vote for the ballot candidate and add a vote for the write in candidate on the tape. Document the reason for any change on the Inspectors' Statement (EL-104).
5. Once all ballots have been entered into the machine, follow the instructions provided by the municipal clerk for printing out the election results.
6. Election inspectors shall, if possible, print the result report before breaking any seal on the electronic equipment and before the removal of the memory card from the voting station.
7. The chief election inspector shall record the serial number of all security seals on the Inspectors' Statement (EL-104) or on a copy of the results tape secured and transmitted to the municipal clerk.
8. One copy of the results report and the memory cards shall be secured in a separate, sealed container or envelope by the chief election inspector. The chief election inspector and two additional election inspectors shall sign their names across the seal of the secured envelope or container. As an alternate procedure, the memory cards may remain sealed in the voting stations or units.
9. Following the vote count, election inspectors publicly announce the results for each candidate and referenda. The chief inspector or an election

inspector designated by the chief inspector reports the results to the municipal and school district clerks.

10. The chief inspector and one other inspector shall seal voted ballots and the Original Ballots envelope in a separate ballot bag (EL-101). Return the bags containing the memory unit and the voted ballots to the municipal clerk.
 - a. When inspector appointments are by party affiliation, the inspector's affiliation must be different than that of the chief inspector.
 - b. The chief inspector and the inspector seal or secure the ballot bags or containers in such a manner that it is not possible to insert or remove a ballot from the bag or container.
 - c. The unique identifying number of any tag should be recorded on the Ballot Container Certificate (EL-101) and on the Inspectors' Statement (EL-104).
11. Do not seal the completed write-in tally sheets or election results printouts in the ballot bag.

Direct Recording Electronic Voting Equipment (DRE)

If direct recording electronic voting equipment is used in your municipality, use the following procedure for counting and submitting vote totals:

1. In post-election mode, election inspectors shall print the results report before breaking any seal on the electronic equipment and before the removal of the memory card from the voting station.
2. The chief election inspector shall record the serial number of all security seals on the Inspectors' Statement (EL-104) or on a copy of the results tape secured and transmitted to the municipal clerk.
3. One copy of the results report and the memory cards shall be secured in a separate, sealed container or envelope by the chief election inspector. The chief election inspector and two additional election inspectors shall sign their names across the seal of the secured envelope or container. As an alternate procedure, the memory cards may remain sealed in the voting stations or units.

4. All votes, including write-in votes, are automatically tabulated by the DRE equipment. Depending on what type of technology is used by your municipality, election inspectors may need to merge the DRE results with the other results. In most cases, election inspectors will be manually merging DRE results with either optical scan systems or ballots that were counted by hand. Follow the municipal clerk's instructions for merging results.

Determining Voter Intent

Summary

When counting votes at any election, voter intent is the controlling factor in determining if and how a vote should be counted. When there is a question of how a vote should be counted because it is not clearly marked as the instructions on the ballot indicate it should be, the decision is made by a majority vote of the election inspectors. Even though tabulators may be used to assist in counting, the decision on how to treat a questionable ballot is made by the election inspectors. One common example of when a determination of voter intent and the validity of a ballot must be made is when an elector has overvoted for a particular office on the ballot. The ballot should be treated as an overvote for that office only. A record is made on the Inspectors' Statement (EL-104) that a vote was not counted for that office because of an overvote. All other offices on that ballot must be counted as the voter intended.

Wis. Stat. § 7.50.

Counting Write-In Votes

There is no requirement for a voter to make an X or other mark, fill in an oval or connect an arrow in order to cast a write-in vote. Where optical scan voting systems are used, care must be taken to assure that write-in votes are counted when the elector fails to make a mark, connect the arrow or fill in the oval next to the write-in line. Because the equipment will not pick up a write-in vote where the arrow is not connected, or the oval is not filled in next to the write-in line, election inspectors must review each ballot to determine if a write-in vote has been cast. Write-in votes are recorded on a tally sheet (EL-105). This is the official record of all valid write-in votes.

The deadline for a candidate to file a Campaign Registration Statement (CF-1) with the appropriate filing officer to be considered a registered write-in candidate is 12:00 p.m. the Friday before the election. Clerks should provide their election inspectors with a list of registered write-ins. The list may not be posted and can

only be offered to a voter if the election inspector is asked. Wis. Stat. § 7.50(2)(em).

In *most* cases, a write-in vote will take precedence over a vote for a person whose name is printed on the ballot for the same office. However, determining the proper way to count write-in votes is dependent on the following criteria:

- The provisions of the Elector Intent Statute, from which the general examples below are taken. Wis. Stat. § 7.50.
- The provisions of 2013 Act 178 which limits the scenarios where nonregistered write-in candidate votes may be counted. These provisions are addressed later in this chapter.

Basic Instructions for Counting Write-in Votes

The examples of when and when not to count write-in votes set out below include, but are not limited to, common situations for all elections. Special considerations when counting write-in votes at a partisan primary and the general election can be found in separate sections following the basic examples.

Count Write-in Votes When:

Note: The examples below refer to write-in stickers. Although the reference to write-in stickers has been removed from Wis. Stat. § 7.50, the statute that addresses voter intent, the statute does not explicitly prohibit the use of write-in stickers. Therefore, a write-in sticker placed on a ballot is considered a write-in vote and must be treated as any other write-in vote.

1. The name of the person is misspelled, but the intent of the voter can be reasonably determined.
2. The name of the person is abbreviated, but the intent of the voter can be reasonably determined.
3. The name of the person contains a wrong initial or an initial is omitted.
4. Only the last name of a person is written in. Count the vote if—
 - The person is a registered write-in candidate or,
 - The intent of the voter can be reasonably determined.
5. The voter did not make an X or other mark, fill in an oval or complete and arrow next to the write-in line—

- An “X” or any other mark is not required in order to cast a write-in vote.
6. A sticker contains **only the name of a person** and is placed on a ballot—
 - The vote is counted for the person named for the office listed in the space where the sticker is placed.
 7. A sticker contains **only the name of a person** and is **placed in the margin**. Voter intent must be determined—
 - If the person named on the sticker has filed a campaign registration statement indicating the office sought, the vote should be counted for the person named on the sticker for the office listed on the campaign registration statement.
 - If the person named on the sticker has not filed a campaign registration statement indicating the office sought, the vote is not counted.
 8. A sticker containing the **name of a candidate and the office sought** is placed under a different office than the one indicated on the sticker—
 - The vote counts for the person named on the sticker for the office under which the sticker is placed.
 9. A sticker contains the **name of a candidate and the office sought** and is placed in the margin of the ballot or any place other than in a particular office space—
 - The vote is counted for the person for the office listed on the sticker.
 10. The instructions to voters are "Vote for 1", and the voter makes an “X” or other mark in the box next to a name that is printed on the ballot and also writes in another person's name for the same office—
 - Only the write-in vote is counted. This is not an overvoted ballot.
 11. The instructions to voters are "Vote for not more than 2," and the voter makes an “X” or other mark in the box next to two names that are printed on the ballot and also writes in another person's name—
 - Only the write-in vote is counted. This is not an overvoted ballot.
 12. In a nonpartisan election (February or April), a candidate’s name is printed on the ballot for an office and the voter writes in that candidate for another office—

- The vote is counted for the office where the write-in occurs.
13. The name of a person, who has filed a campaign registration statement indicating the office sought is written in under an office other than the one indicated on the campaign registration statement—
- The vote counts for the person for the office where the name is written.

Do Not Count Write-in Votes When:

1. A name is misspelled or abbreviated to the point that the intent of the voter cannot be reasonably determined.
2. A write-in sticker is placed in the endorsement section of a ballot or on a side of a ballot with no printed offices or contests.
3. A write-in sticker is found in the ballot box and is not attached to any ballot.
4. The instructions on the ballot are “**Vote for one**” and the name of more than one person has been written in for a single office—
 - This is an overvote and no votes are counted for that office.
5. The instructions on the ballot are “**Vote for one**” and the name of more than one person has been written in and a vote has also been cast for a candidate whose name is printed on the ballot for the same office—
 - This is an overvote and no votes are counted for that office.

Wis. Stat. § 7.50.

Special Considerations for Partisan Primary Elections

At a partisan primary, a voter may cast votes in only one party’s primary.

Where hand-count paper ballots are used, the voter identifies their party preference when they choose the party ballot on which they will cast their vote. The voted ballot is placed in the ballot box and the remaining unvoted ballots are placed in a locked “discard” box.

Where optical scan voting systems are used, the voter identifies their party preference either by voting in only one party or by marking a party preference. Selecting the party preference will not prevent crossover voting, but it is a

safeguard so that a voter will not lose all votes if he or she does crossover. Selecting a party preference preserves the votes cast in that party, even if the voter also casts votes in another party.

When determining voter intent, it is important to ensure that write-in votes are not counted for candidates in different political parties or for more than one office. Wis. Stat. § 7.50(1)(d).

Count Write-in Votes at a Partisan Primary When:

1. A sticker contains **the name, political party and office** the person is seeking and is placed anywhere on the face of the ballot other than in a particular office space.
 - The vote is counted for the person, party and office listed on the sticker.
2. A candidate's name is printed on the ballot for one office and the voter writes in that candidate's name for another office **for the same party**—
 - The vote is counted for the person in the political party and office where their name is written.
3. The voter **has selected a party preference**, casts votes for ballot candidates in the party selected, and votes for or writes in, on the party ballot selected, the name of a person who is listed as a ballot candidate in a different party—
 - Votes are counted except for the write-in vote.
4. The name of a write-in candidate, who has filed a campaign registration statement **indicating the party and office sought**, is written in under an office other than the one indicated on the campaign registration statement but in the same party as indicated on the campaign registration statement—
 - The vote counts for the person for the office where the name is written.

Do Not Count Write-in Votes at a Partisan Primary When:

1. The voter **has selected a party preference**, and then writes in the name of a person whose name appears on the ballot of a different political party—
 - This creates a crossover vote for that office only, and the write-in is not counted. Wis. Stat. § 7.50(2)(h).

2. The voter **has not selected a party preference**, but has cast votes for candidates in one political party, and then votes for a candidate whose name appears on another party's ballot or writes in a name on another party's ballot—
 - This creates a crossover vote. In this case, the entire ballot is not counted.

Special Considerations for the General Election

When counting votes at the November general election November, it is important to remember that all votes are counted for the person for the office in which the elector has cast the vote. If a name is written in by the elector, the party affiliation does not matter when it comes to determining the number of votes cast for the candidate. All votes cast for an individual, for the same office, are added together.

Exception: When a candidate's name *is printed on the ballot* for an office and the voter writes in that candidate's name for a different office, the write-in vote cannot be counted.

Counting Votes for Governor and/or Lieutenant Governor

1. If an elector writes in the name of a candidate for governor but does not write in a name of a candidate for lieutenant governor, a vote is counted for the candidate for governor.
2. If an elector writes in the name of a candidate for lieutenant governor but does not write in a name of a candidate for governor, a vote is counted for the candidate for lieutenant governor.
3. However, a write-in vote for governor or lieutenant governor alone shall not be added to the votes of the same candidate if there are different combinations of governor/lieutenant governor. For example:
 - a. A write-in vote for Mary Jones for governor and Samuel Smith for lieutenant governor may not be added to a write-in vote for Mary Jones for governor with a different candidate for lieutenant governor or no candidate for lieutenant governor.
 - b. A write-in vote for Mary Jones for governor and Samuel Smith for lieutenant governor may not be added to a write-in vote for Samuel Smith for lieutenant governor with a different candidate for governor or no candidate for governor.

- c. A write-in vote for Mary Jones for governor may not be added to a write-in vote for Mary Jones for governor with a different candidate for lieutenant governor.
- d. A write-in vote for Samuel Smith for lieutenant governor may not be added to a write-in vote for Samuel Smith for lieutenant governor with a different candidate for governor.

In these situations, the write-in votes are listed separately on the tally sheet for each combination of candidates.

Counting Votes for President and Vice President:

An elector casting a write-in vote for President and Vice President must designate the presidential candidate of his or her choice. A vote for a candidate for President only will be counted. If the elector casts a write-in vote for only a candidate for Vice President, the vote will not be counted. Wis. Stat. § 7.50(2)(i).

Determining the Viability of Write-in Votes as Provided by 2013 Wisconsin Act 178

2013 Act 178 limits when votes cast for unregistered write-in candidates may be counted. The legislation sets out the following specifications for determining write-in vote eligibility:

- 1. Always count votes for registered write-in candidates.**
- 2. Count votes for nonregistered write-in candidates only if:**
 - There are fewer ballot candidates for a given office than there are seats to fill.
 - In a partisan primary – There are no ballot candidates for a given office in a given party.
 - There are one or more candidates on the ballot for the office, but one or more is deceased.
 - In a partisan primary – There are one or more ballot candidates for a given office in a given party but one or more is deceased.

Note: At a partisan primary, No. 2 is broken down further by party.

The following four questions should be asked when determining write-in vote viability and in what situations votes for ballot candidates may also be considered. Taking time to ask these questions should help to sort out the confusion write-in votes can cause.

1. Can all write-in votes be counted or just those for registered write-in candidates?

(If there are at least as many ballot candidates as there are seats to fill; only votes for registered write-in candidates may be counted.)

2. Is (or are) the write-in candidate(s) registered?

3. Regardless of whether the write-in vote(s) can or can't be counted, are there enough write-in votes to fill the seats up for election? *(If there are at least as many write-in votes as there are seats to fill, votes for ballot candidates may not be counted.)*

4. How many votes is the elector entitled to? *(If the number of counted write-in votes plus the number of marked ballot candidates exceeds the number of votes to which the voter is entitled, the marked ballot candidates may not be counted.)*

The answers to questions 1 and 2 determine which, if any, write-in votes can be counted. The answers to questions 3 and 4 will determine whether votes for ballot candidates, when cast in combination with write-in votes, may be counted.

Note: In a “vote for 1” situation, the presence of a write-in vote means no ballot candidate votes can be counted.

In a “vote for more than 1” situation, the total number of write-in votes cast and the number of votes to which the voter is entitled will determine whether ballot candidate votes may be counted.

The four questions have been applied to the examples on the following pages.

Write-in Vote Scenarios

Example 1

**Governor
Vote for 1***

- Tom Jones
- Peter Noone
- Johnny Maestro

*2 ballot candidates
for a 1-seat office.
1 unregistered
write-in candidate.*

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are 2 ballot candidates for this 1-seat office, so only votes for registered write-in candidates may be counted.

2) *Is the write-in candidate registered?*

No. Johnny Maestro is not registered. The write-in vote is not counted.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in vote can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

Yes. There is 1 seat to fill and 1 write-in vote. Therefore, votes for ballot candidates may not be counted. *Remember:* In a “vote for 1” scenario, the presence of a write-in vote means no marked ballot candidates may be counted.

4) *How many votes is the voter entitled to? (Counted write-in votes plus marked ballot candidates cannot exceed the number of votes the voter is entitled to.)*

One*

- We have determined that the write-in vote cannot be counted because the write-in candidate is not registered.
- We have also determined that votes for ballot candidates cannot be counted because the voter cast a write-in vote.
- Even if ballot candidates could be considered, which one did the voter intend to vote for? Voter intent cannot be determined.

No votes may be counted for this contest.

Example 2

**Coroner
Vote for 1***

- Gary Lewis
- Brian Hyland & Johnny Maestro

1 ballot candidate
for a 1-seat office.
2 write-in votes;
Brian is registered,
Johnny is not.

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There is 1 ballot candidate for this 1-seat office, so only votes for registered write-in candidates may be counted.

2) *Is either write-in candidate registered?*

Brian is registered; Johnny is not. Which write-in the voter intended to vote for cannot be determined. Neither write-in vote is counted.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in vote can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

Yes. There is 1 seat to fill and 2 write-in votes. Therefore, votes for ballot candidates may not be counted. Remember: In a “vote for 1” scenario, the presence of write-in votes means no marked ballot candidates may be counted.

4) *How many votes is the voter entitled to?*

One*

- We have determined that the write-in vote cannot be counted because intent cannot be determined between the two names written in.
- We have also determined that votes for ballot candidates cannot be counted because the voter cast a write-in vote.
- The voter has voted for a total of 3 candidates. Voter intent cannot be determined.

No votes may be counted for this contest.

Example 3

Sheriff

Vote for 1*

- Bat Masterson
- Matt Dillon
- Barney Fife

2 ballot candidates for a 1-seat office. 1 vote for a registered write-in

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are 2 ballot candidates for this 1-seat office, so only votes for registered write-in candidates may be counted.

2) *Is the write-in candidate registered?*

Yes. The write-in vote is counted.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in vote can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

Yes. There is 1 seat to fill and 1 write-in vote. Therefore, votes for ballot candidates may not be counted. *Remember:* In a “vote for 1” scenario, the presence of a write-in vote means no marked ballot candidates may be counted.

4) *How many votes is the voter entitled to?*

One*

- We have determined that the write-in vote counts. The voter has reached the number of votes to which they are entitled.
- We have also determined that votes for ballot candidates cannot be counted because the voter cast a write-in vote.

One write-in vote is counted for this contest.

Example 4

**Village Trustee
Vote for not more
than 3***

- Andy Warhol
- Gloria Steinem
- Walter Winchell
- Barney Fife
- Ida Lupino

*3 ballot candidates
for a 3-seat office. 2
write-in votes.
Barney is registered;
Ida is not.*

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are three ballot candidates for this “vote for 3” office, so only votes for registered write-in candidates may be counted.

2) *Is either write-in candidate registered?*

Barney is registered, Ida is not. One vote is counted for Barney.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in votes can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

No. There are three seats to fill and two write-in votes. Therefore, votes for ballot candidates may be counted.

4) *How many votes is the voter entitled to?*

Three*

- We have determined that one write-in vote (Barney) is counted.
- We have also determined that votes for ballot candidates may be counted; a vote for Gloria is counted.

One write-in vote and one ballot candidate vote are counted for this contest.

Example 5

Village Trustee
Vote for not more
than 3*

- Gloria Steinem
- Walter Winchell
- Ward Cleaver
- Ozzie Nelson
- Laura Petri
- Barney Fife
- Ida Lupino
- Tom Jones

5 ballot candidates
for a 3-seat office. 3
votes for registered
write-ins.

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are 5 ballot candidates for this 3-seat office, so only votes for registered write-in candidates may be counted.

2) *Are the write-in candidates registered?*

All 3 are registered. Three write-in votes are counted.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in vote can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

Yes. There are 3 seats to fill and 3 write-in votes. Therefore, votes for ballot candidates may not be counted.

4) *How many votes is the voter entitled to?*

Three*

- We have determined that 3 write-in votes count. (The voter has reached the limit of votes to which they are entitled.)
- We have also determined that the vote for the ballot candidate may not be counted.
- In addition, the 3 counted write-in votes plus the vote for the ballot candidate would exceed the number of votes to which the voter is entitled.

Three write-in votes are counted for this contest. *(Don't forget to subtract the vote the equipment counted for the ballot candidate.)*

Example 6

Town Board
Supervisor
Vote for not more
than 3*

- Ward Cleaver
- Ozzie Nelson
- Laura Petri
- Peter Noone
- Tom Jones
- Robert Plant

3 ballot candidates
for a 3-seat office. 3
write-in votes; Peter
and Tom are
registered, Robert is
not.

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are 3 ballot candidates for this 3-seat office, so only votes for registered write-in candidates may be counted.

2) *Are the write-in candidates registered?*

Peter and Tom are; Robert is not. Count the votes for Peter and Tom.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in vote can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

Yes. There are 3 seats to fill and 3 write-in votes. Therefore, votes for ballot candidates may not be counted.

4) *How many votes is the voter entitled to?*

*Three.

- We have determined that 2 write-in votes are counted.
- We have determined that votes for ballot candidates cannot be counted.

Two write-in votes are counted for this contest. (Don't forget to subtract the Votes the voting equipment counted for the ballot candidates)

Example 7

**Town Board
Supervisor
Vote for not more
than 3***

- Ozzie Nelson
- Laura Petri
- Peter Noone .
- _____ .
- _____ .

*2 ballot candidates
for a 3-seat office. 1
vote for a non-
registered write-in.*

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are 2 ballot candidates for this 3-seat office, so all write-in votes may be counted.

2) *Is the write-in candidate registered?*

No. But all write-in votes may be counted. Count a vote for Peter.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in vote can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

No. There are 3 seats to fill and 1 write-in vote. Therefore, votes for ballot candidates may be counted. Voter has indicated their selection by circling the ballot candidates.

4) *How many votes is the voter entitled to?*

Three*

- We have determined that the 1 write- vote is counted.
- We have also determined that votes for ballot candidates may be counted. One vote each for Ozzie and Laura are counted.

One write-in vote and two votes for the ballot candidates are counted for this contest (*Don't forget to add 1 vote each to Ozzie's and Laura's vote totals.*)

Example 8

Town Board
Supervisor
Vote for not more
than 3

- Ward Cleaver
- Ozzie Nelson
- Laura Petri
- Gomez Adams
- Peter Noone.
- Tom Jones.
- _____.

4 ballot candidates
for a 3-seat office.
Ozzie is deceased.
3 write-in votes;
Peter is registered,
Tom is not.

Step 1: Determine which, if any, write-in votes can be counted.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are 4 ballot candidates for this 3-seat office, but Ozzie Nelson is deceased. All write-in votes may be counted.

2) *Are the write-in candidates registered?*

It doesn't matter. All write-in votes may be counted. The two write-in votes are counted.

Step 2: Determine if any votes marked for ballot candidates can be counted.

3) *Regardless of whether the write-in vote can or cannot be counted, are there enough write-in votes to fill the number of seats up for election?*

No. There are 3 seats to fill and 2 write-in votes. Therefore, votes for ballot candidates may be counted.

4) *How many votes is the voter entitled to?*

Three.

- We have determined that 2 write-in votes are counted.
- We have determined that votes for ballot candidates may be counted.
- However, the 2 write-in votes plus the 2 votes for ballot candidates would exceed the number of votes to which the voter is entitled. The ballot candidate votes are not counted.

Two write-in votes are counted for this contest. (Don't forget to subtract the votes the voting equipment counted for the 2 ballot candidates.)

DOCUMENTATION

Summary

Your duties as an election official are not finished until the post-election paperwork is complete. Election inspectors should begin this process with a review of all of the forms and reports that must be completed in order to determine the results of the election.

Reconciling Poll Lists

After all voters cast their ballots and the polls have been closed, the election inspectors must reconcile the poll lists, also known as poll books, to make sure that they contain identical information and notations. Inspectors may find this process easier if they have periodically reconciled the poll lists during the day. If there are more than two poll lists, they must all match, and contain identical information.

1. Compare voter numbers and notations on the poll lists.
 - a. The WEC recommends comparing the first and last number on each page, as well as every 3rd or 5th number to make sure they match.
 - b. Compare notations beside the name of each voter on both poll lists to determine if they match.
 - c. The last voter number on both lists should be circled in red.

Note: Any differences between the lists must be reconciled. If issues cannot be reconciled, the election inspectors should describe the problem(s) on the Inspectors' Statement (EL-104).

2. Reconcile the supplemental poll lists.
 - a. Reconcile the supplemental lists of individuals registering at the polling place and new voters casting a presidential only ballot. These voters should be included in the determination of the total number of voters.

3. Enter the total number of voters, the number of absentee voters and the number of provisional voters in the spaces provided on the certification page of the Inspectors' Statement (EL-104).
 - a. The total number of voters is the number of people who have a voter number next to their names on the poll list and supplemental poll list. It is possible for the total number of voters and the last voter number issued to be the same number. This will only occur if numbers were not skipped or used twice, and if all electors who received a voter number also received a ballot.
4. After the poll lists are compared and reconciled, they are signed by the chief inspector and the election inspectors who maintained the lists.

Wis. Stat. § 7.53.

Documenting Election Day

Other than the poll list, election inspectors must complete and certify additional forms that help to “tell the story” of an election.

Inspectors' Statement (EL-104)

1. The chief inspector or an election inspector designated by the chief inspector completes the certificate on the cover sheet of the Inspectors' Statement (EL-104) listing the following information:
 - a. Ward or wards served by the polling place
 - b. Municipality
 - c. County
 - d. Election Date
 - e. Verify Tamper-evident Seal
 - i. Pre-election
 - ii. Post-election

- f. Ballot Bag Tamper-evident Seal Number
 - i. Also recorded on the Ballot Container Certificate (EL-101)
 - g. Total number of voters
 - h. Number of absentee voters
 - i. Number of provisional voters
2. All election inspectors sign the completed certificate on the original Inspectors' Statement (EL-104).
 - a. If there are multiple shifts, each shift should sign and indicate the hours they worked at the polling place.
 - b. If the standard inspectors' statement does not have sufficient space for the number of inspectors working at the polling place, the election inspectors may sign on an additional page that is then attached to the EL-104 as an addendum.
 3. The chief inspector signs the certification that he or she has completed the required training administered by the Wisconsin Elections Commission. If more than one chief inspector served at the polling place, they should each sign the certification.
 4. The completed certificate, incident log, Observer Log (EL-109), all challenge documentation forms, and any Orders to Leave (EL-110) are attached together to create the Inspectors' Statement (EL-104).

Tally Sheets (EL-105)

1. Review and compare the two original Tally Sheets.
 - a. Review the election information.
 - i. Ward
 - ii. Municipality
 - iii. Date
 - iv. Type of election
 - b. Review the tally marks.

- i. Are there 5 marks in each filled-in box?
 - ii. Is the written total the same as the tally?
- c. Compare the totals.
- d. Review the certification.
 - i. Is the information correct?
 - ii. Did everyone who helped count the ballots sign the certification?
 - iii. Were all the questions answered?

Wis. Stat. § 7.51(2).

Municipal Board of Canvassers (MBOC)

The MBOC meets after every election regardless if there are municipal offices and/or referenda on the ballot.

In municipalities with one polling place and one set of results, the election inspectors act as the municipal board of canvassers on election night. They complete the canvass statement, certify the municipal election results and officially determine the winners.

In municipalities with more than one polling place where results must be combined, the municipal board of canvassers meets on the day after the election to certify the results of the municipal election and make the official determination of the winners. The board of canvassers consists of the municipal clerk and two other qualified electors of the municipality appointed by the municipal clerk. Wis. Stat. § 7.53(2).

1. Complete the canvass summary statement on the Canvass Report (EL-106) by listing each of the municipal offices and referenda with total votes for each candidate or referendum position on the summary page.
 - a. The Canvass Report (EL-106) is made up of three parts:
 - i. The Tabular Statement of Votes Cast
 - ii. The Certification of the Board of Canvassers

iii. The Summary Statement of the Board of Canvassers

2. Attach one original Tally Sheet (EL-105) with the municipal election results.
3. List the winning candidates and referenda results in the determination section of the canvass form.
4. Each election inspector signs the certification on the canvass form.
5. Do not put the completed Canvass Report (EL-106) in the ballot bag.
6. Return the completed Canvass Report (EL-106) to the municipal clerk.

Wis. Stat. § 7.53(1).

Breaking a Tie in a Municipal Contest

A tie vote in a municipal contest is broken by the Municipal Board of Canvassers. The MBOC should use a method that results in a random outcome, such as flipping a coin or drawing names out of a hat. The procedure should be documented. If all of the candidates are present, they can draw to break the tie themselves. When a municipal referendum results in a tie, the referendum fails.

Wis. Stat. §5.01(4).

Completing Forms

Once ballots have been counted and the votes recorded on the appropriate Tally Sheets (EL-105), all election forms must be completed, and all materials secured and routed to the appropriate clerk.

1. Separate ballots that have been identified as damaged, defective, overvoted, objected to or set aside, bundle them separately and place them in the Original Ballots envelope.
2. Place all voted ballots along with the Original Ballots envelope into the ballot bag or container.

- a. If the election inspectors working at the polling place are nominees from political parties, at least one election inspector from each party must participate in the securing of the ballots.
 - b. Secure the container or bag with a tamper-evident seal so that no ballot can be inserted or removed without breaking the seal.
 - c. Complete the Ballot Container Certificate (EL-101) on the ballot bag or container, recording the unique identifying number of the seal.
 - d. Record the security seal number on the Inspectors' Statement (EL-104).
3. The Ballot Container Certificate (EL-101) must be signed by the chief inspector and at least one other election inspector. If election inspectors are appointed from lists submitted by the political parties, the Ballot Container Certificate (EL-101) should contain one signature from the inspector of each party, up to three total signatures (unaffiliated, Democratic, Republican).
4. Rejected absentee ballot envelopes should be placed in the brown carrier envelope (EL-102). The certificate on the carrier envelope must be signed by the chief inspector and two other election inspectors, one from each party (unless appointed without regard to party affiliation).
5. All used absentee certificate envelopes (EL-122) should be placed in the white carrier envelope (EL-103). The certificate on the carrier envelope must be signed by the chief inspector and two other election inspectors, one from each party (unless appointed without regard to party affiliation).
6. Provisional ballot certificate envelopes (EL-123) should be placed inside the provisional ballot carrier envelope (EL-108). The certificate on the carrier envelope must be signed by the chief inspector and two other election inspectors, one from each party (unless appointed without regard to party affiliation).
 - a. The provisional ballot carrier envelope (EL-108) is placed in a separate ballot bag or container. The ballot bag or container should be sealed with a tamper-evident seal, the Ballot Container Certificate completed, and the bag or container labeled "Provisional Ballots."

- b. The Provisional Ballot Reporting Form (EL-123r) should not be sealed in the ballot container.
7. Complete the Inspectors' Statement (EL-104) which lists all blank, challenged, damaged, defective, overvoted, objected to, provisional and rejected ballots as well as the total number of electors voting at the polling place, the number of absentee and provisional ballots cast, and the seal numbers from the accessible voting equipment.

Wis. Stats. §§ 7.51(3),(4),(5), 7.52(4)-(9), 7.52(1),(2).

Routing Materials

All materials are delivered to the municipal clerk. Materials should be separated into the following categories:

Municipal Clerk

1. Municipal ballots (if hand-count paper ballots are used) sealed in the ballot bag unless they are returned to the ballot box and sealed.
2. Provisional ballots sealed in a separate ballot bag with a tamper-evident seal.
3. Original Tally Sheets (EL-105).
4. A copy of the voting equipment results tape, if any.
5. Original Inspectors' Statement (EL-104) and any attachments. The municipal clerk keeps the original form and makes copies for the School District Clerk and County Clerk.
6. Statement of the Board of Canvassers (EL-106), if required.
7. One original poll list and one original supplemental poll list (EL-107s). The poll list that contains electors' signatures is routed to the county clerk.
8. Absentee Ballot Log (EL-124).
9. Provisional Ballot Reporting Form (EL-123r).

School District Clerk

The municipal clerk immediately forwards the following to the school district clerk:

1. School district ballots (if hand-count paper ballots are used) sealed in a ballot bag.
2. Original Tally Sheet (EL-105) listing school district results.
3. A copy of the voting equipment results tape, if any.
4. One copy of the Inspectors' Statement (EL-104).
5. A certified copy of the signed poll list (EL-107 & EL-107s).
6. A copy of the Provisional Ballot Reporting Form (EL-123r).

County Clerk

The municipal clerk supervises the delivery of the following to the county clerk no later than 4:00 p.m. on the day following the election:

1. The ballot bags or containers with all federal, state, county and technical college ballots.
2. The brown carrier envelope (EL-102) containing rejected absentee ballots.
3. The white carrier envelope (EL-103) containing used certificate envelopes from absentee voters.
4. One copy of the Inspectors' Statement (EL-104).
5. One original Tally Sheet (EL-105) for presidential, congressional, state, legislative, judicial, and county, offices and state, county and technical college referenda.
6. A copy of the voting equipment results tape, if any.
7. One original poll list including the supplemental poll list (EL-107s) that includes the electors' signatures.
8. A copy of the Provisional Ballot Reporting Form (EL-123r).

Wis. Stats. §§ 7.51(4)(b), 7.51(5)(b), 7.52(8), 7.60.

Frequently Asked Questions

1. Who is the board of canvassers?

In municipalities with one polling place and one set of results, the election inspectors act as the municipal board of canvassers on election night when there are municipal offices or referenda on the ballot. Wis Stat. § 7.53(1).

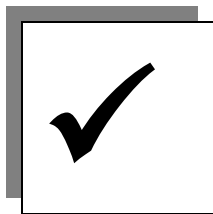
2. This election includes school board members. Who certifies their results?

School districts have their own board of canvassers to certify the school district results and make official determination of the winners. The board is made up of the school district clerk and two other qualified electors of the school district. Wis. Stat. § 7.53(3)(a).

3. What do we do with unused ballots?

Unused ballots are wrapped or bound separately and delivered to the municipal clerk. Make a note indicating that these ballots are unused.

Post-Election Checklist



Poll Lists:

Two identical poll lists must be completed

- Completed with necessary attachments, including the signatures of at least 3 inspectors (chief inspector and any inspector responsible for maintaining the list)
- Original List completed for municipal clerk
- Original List that contains the voters' signatures completed for county clerk
- Certified copy may be made for school district clerks and special purpose district clerks

Tally Sheet Preparation

Two tally sheets must be created for each type of ballot (EL-105)

- Tally sheets are complete, including signatures from all persons counting ballots
- Original Tally Sheet completed for municipal clerk
- Original Tally Sheet completed for county clerk
- Original Tally Sheet completed for school district clerk

Inspectors' Statement:

One inspectors' statement must be completed for each set of tally sheets

- Completed with necessary attachments, along with signatures of 3 inspectors*, voting equipment seal verification checks, and record of all ballot bag tamper-evident seal numbers
- Original statement completed for municipal clerk
- Copy of statement for county clerk (made by municipal clerk)
- Copy of statement for school district clerk (made by municipal clerk)

Provisional Ballots

- The carrier envelope for provisional ballots (EL-108), containing all provisional ballot certificate envelopes (EL-123) placed in a separate ballot bag and secured with a tamper-evident seal
- The completed Provisional Ballot Reporting Form (EL-123r) not sealed in a ballot bag

Absentee Ballots

Materials for absentee ballots must be placed in the proper envelope

- Certificate of Rejected Absentee Ballots (EL-102) (Brown)
- Used Absentee Certificate Envelope (EL-103) (White)
- Certifications on each envelope are completed with the signatures of 3 inspectors*

Ballot Security

Ballots must be secured in a bag or container with a tamper-evident seal.

- Ballots are separated by type and placed in their respective ballot bag
- Certification is completed with the signatures of 3 inspectors* and tamper-evident seal number of each bag.

GLOSSARY OF ELECTION TERMS

A

Absentee Ballot: a ballot cast by a registered voter who is unable or unwilling to appear at the polling place on Election Day. An absentee ballot application or a written request with all required information must be received by the clerk before issuing an absentee ballot. The ballot must be received by Election Day with the certification properly completed in order to be counted.

Absentee Ballot Application (EL-121): a request from a qualified, registered elector to receive an absentee ballot. Voters may submit a written request in lieu of this form, as long as the request includes the voter's name, residential address, mailing address (if different from residential address), indication of the elections for which the voter desires an absentee ballot, an indication of status as a military voter, permanent overseas voter or temporary overseas voter (if applicable).

Absentee Voter: a registered voter who is unable or unwilling to appear at the polling place on Election Day.

Accessibility: refers to the requirement, under state and federal law, to make reasonable accommodations for elderly and disabled voters. This includes providing assistance to eliminate physical barriers to the polling place, acquiring voting equipment that enables all citizens to cast an independent and private ballot in a dignified manner, and providing information that enables all citizens to fully participate in the election process. Municipalities must use polling places that are fully accessible, which includes having at least one accessible voting equipment component. Polling place accessibility is evaluated by completing a *Polling Place Accessibility Survey*, for each new polling place.

Accessible Voting Equipment Component: a device approved by the Elections Commission which provides independence and privacy to voters with disabilities.

Address Change: notification given to a municipal clerk by a registered voter that they have changed their voting address or residence by submitting a new voter registration application. The municipal clerk or the municipal clerk's provider updates WisVote to reflect the address change information provided by the voter.

Adjudicated Incompetent: refers to an individual who is disqualified from voting due to a court ruling that he or she is incapable of understanding the objective of the elective process. No individual may be denied the right to register or to vote on the basis of incompetence unless he or she has been adjudicated incompetent by a court.

Administrative Rules: rules promulgated by the agency to administer and implement Wisconsin statutes.

Audit Trail: see Voter-Verified Paper Audit Trail.

B

Ballot Box: refers to the container or box in which electors place their voted ballots in wards that use paper ballots. The ballot box must be secured by lock or numbered seal.

Ballot Marking Device: any technology that allows voters with disabilities and other special needs to mark a ballot privately and independently but does not tabulate votes. Currently, the only ballot marking devices approved for use in Wisconsin are the ExpressVote, the ImageCast Evolution, ImageCast X, and ClearAccess. This list is current as of the revision date of this manual.

Board of Election Commissioners: a special board, established in every city with a population over 500,000, that carries out all powers and duties assigned to the municipal clerk.

C

Canvass: to examine the Election Day records for completeness and accuracy and make an official determination and certification of the outcome of the election.

Cast Ballot: a ballot marked by the voter to reflect his or her preference for a candidate or referendum and placed in the ballot box.

Central Count: a voting system that tabulates ballots from multiple reporting units or municipalities at a central location. Voted ballots are secured in ballot containers at the polling place. Secured ballots are then transported to the central counting location for tabulation.

Challenged Ballot: a ballot cast by an elector whose eligibility to vote has been questioned according to the challenge process. The cast ballot is marked with the voter number and "Section 6.95."

Chief Inspector: one of the election inspectors at each polling place who directs the conduct of activities assigned to the other election inspectors. In Wisconsin, every polling place is required by Wis. Stat. §7.30(6)(b), to have a chief inspector who has been appointed by the municipal clerk (or board of election commissioners) and has been certified as a chief inspector by the Wisconsin Elections Commission.

Confidential Elector: an elector who is a victim of domestic abuse, sexual assault or stalking and has made a written request to the municipal clerk to not have his or her personal information on the poll list available to public inspection.

D

Deceased List: a list generated by the Wisconsin Department of Health and Family Services that lists all recorded deaths in Wisconsin counties for a specific period of time. This is a

confidential list that is used by municipal clerks to cross-check data currently in WisVote and identifies voters that have become deceased and need to be cancelled in the WisVote system.

Direct Recording Electronic (DRE) Voting Equipment: a voting system that records votes by means of an electronic display provided with mechanical or electro-optical components that can be activated by the voter; that processes voter selections by means of a computer program; and that records that processed voting data in memory components.

E

Election Assistance Commission (EAC): the U.S. Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The Commission serves as a national clearinghouse and resource for information and review of procedures with respect to the administration of federal elections.

Election Day Registration (EDR): refers to the ability of electors to register at the polling place on Election Day. Electors registering on Election Day must complete the Voter Registration Application (EL-131) and provide proof of residence.

Election Inspector (also called a **poll worker**): an election official appointed by the governing body of the municipality who conducts elections under the supervision of the Chief Inspector and the municipal clerk. Every election inspector must view or attend at least one training program every two years.

Electioneering: any activity intended to influence voting at an election. Electioneering is prohibited on public property within 100 feet of any entrance to a building containing a polling place. This does not apply to private property.

Election Registration Officials (EROs): an election official appointed to register voters at the polling place on Election Day, at residential care facilities and retirement homes during open registration and in the clerk's office during in-person absentee voting.

End of Line Officer: an official of the municipality (may be an election inspector, special registration deputy, employee of the clerk, or police officer) designated by the municipal clerk to stand at the end of the line of individuals waiting to vote, if any, at the time the polls close at 8:00 p.m., per Wis. Stat. §7.37(13). This person should be designated before Election Day. While this practice was previously recommended by the Wisconsin Elections Commission, it is now a statutory requirement.

F

First-time voter: an individual who has not voted in Wisconsin.

G

General Election: the election held in even-numbered years on the Tuesday after the first Monday in November to elect U.S. Senators, Representatives in Congress, Presidential electors, State Senators, Representatives to the Assembly, District Attorneys, State Officers other than the State Superintendent of Public Instruction and Judicial Officers, and County Officers other than Supervisors and County Executives. Wis. Stat. §5.02(5).

H

Help America Vote Act (HAVA): the Help America Vote Act of 2002 establishes requirements for voting systems used in federal elections and contains key provisions on improving access to polling places and voting systems for persons with disabilities. This law also requires a single, central list of voters under the control of the state.

I

Ineligible Voter List: a list generated by the Wisconsin Department of Corrections that identifies convicted felons currently on probation or parole who are ineligible to vote in an election. This list is required to be at all polling places on Election Day to help election inspectors identify potential ineligible voters attempting to register on Election Day.

L

Late Registration: refers to electors who registered in the clerk's office after the close of registration, starting at 5:00 p.m. the third Wednesday before the election. These electors are issued a Certificate of Registration (EL-133) from the clerk that identifies them as being properly registered, and their names may appear on the supplemental voter list. However, if the names of late registrants do not make it on to the supplemental voter list, the registrant's Certificate of Registration (EL-133) should suffice at the polling place.

Logic and Accuracy Test: a public test of automatic tabulating equipment to ascertain that it will correctly count votes for all offices and all measures. Testing must be conducted not earlier than 10 days before Election Day, and public notice is required at least 48 hours in advance of the test. The test must be conducted by processing a test deck for each candidate and on each referendum. An errorless count must be made before the automatic tabulating equipment can be approved for use in the election.

M

Mail-In Registration: electors may register to vote by mail. The elector must complete a Voter Registration Application (EL-131) and mail the completed application to the municipal clerk's office. The application must be postmarked no later than the 20th day (third Wednesday) before the election. The elector must include proof of residence.

Military Elector: any member of the U.S. army, navy, air force, marine corps or coast guard, the commissioned corps of the federal public health service or the commissioned corps of the national oceanic and atmospheric administration; members of the merchant marine of the United States; civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States; peace corps volunteers; or spouses and dependents of those listed in the above categories residing with or accompanying them.

O

Observer: an individual who wishes to exercise his/her right to be present at the polling place on Election Day or any locations where ballots are cast, counted or canvassed.

Optical Scan: voting technology employing scanners where voters mark their choice by completing an arrow or filling in an oval. During tabulation, the optical scan voting system interprets the votes using "dark mark logic," whereby the computer selects the darkest mark within a given set as the correct choice or vote. The ballot can be immediately tabulated at the polling place allowing for voters to be notified by the voting system of voting errors such as over voting.

Overseas Voter:

Permanent: a United States citizen, 18 years or older, who resided in Wisconsin before leaving the United States (or is an adult child of U.S. citizens who resided in this state prior to establishing residency abroad) and is now living outside the U.S. **with no present intent to return**, and not registered to vote in any other location. These electors may only vote for federal offices. They are required to register to vote, but do not have to provide proof of residence or photo ID. They may receive their ballots by fax or email.

Temporary: a United States citizen, 18 years of age or older, who is temporarily living outside of the U.S. with **an intent to return**. These electors may vote a full ballot. They are required to register to vote and must provide proof of residence and photo ID. They may receive their ballots via fax or email.

P

Paper Ballot: a ballot that the elector indicates his or her voting preference by marking an (X) in the box next to the candidate or referendum question of his/her choosing. Paper ballots are tabulated by hand.

Partisan Primary: the primary held on the 2nd Tuesday in August to nominate candidates to be voted for at the general election.

Poll List (also known as "Pollbook," "Registration List", or "Voter List"): a paper or electronic list containing the full name and address of each registered elector; a section for the entry of the voter number of the elector when they vote or the poll list number used by the municipal board

of absentee ballot canvassers in canvassing absentee ballots; a space for the voter's signature; and a form bearing the certification of the administrator of the elections commission stating that the list is a true and complete registration list of the municipality or the ward or wards for which the list is prepared.

Presidential Preference: an election held in conjunction with the Spring Election to express preferences for the person to be the presidential candidate for each party in a year in which electors for president and vice president are to be elected.

Proof of Identification (also known as "Photo ID"): refers to documents that verify the identity of an elector voting an absentee ballot by mail or in-person in the municipal clerk's office, or at the polling place on Election Day. For a complete list of acceptable forms of proof of identification and exceptions to the law, refer to Wis. Stat. §5.02(6m) or the "Electors" section of this manual.

Proof of Residence (POR): refers to documents that verify the current residence of an elector registering to vote. Acceptable forms of proof of residence must contain a complete name, including first and last name; and a current and complete residential address, including a numbered street address, if any, and the name of a municipality. Forms that have an expiration date must be valid on Election Day to constitute acceptable proof of residence at that election.

Provisional Ballot: a provisional ballot is a ballot that is marked by a voter but is not counted at the time it is cast. It is issued to a voter who is:

- 1) Unable or unwilling to provide his or her Wisconsin driver license or state-issued ID card number when registering to vote at the polls on Election Day
- 2) Unable or unwilling to provide acceptable Photo ID at the time of voting at the polls on Election Day.

There are no other situations when a provisional ballot is issued. The ballot is only counted on election night if the required documentation is provided to the election inspectors by 8:00 p.m. on election night. The voter has until 4:00 p.m. on the Friday following the election to provide the clerk with the required documentation for the ballot to be counted.

Q

Qualified Elector: a qualified elector is defined in Wis. Stat. §6.02, as a U.S. citizen, 18 years of age or older, who has resided in the election district for at least 10 consecutive days before any election at which he or she offers to vote (and who is not disqualified by one or more of the impediments described in Wis. Stat. §6.03).

R

Referendum: an election at which an advisory, validating or ratifying question is submitted to the electorate.

Registration List: see “Poll Book.”

Reporting Units: a ward or combination of wards used to report election results. All wards in a reporting unit must consist of identical districts that pertain to the district seats up for election (i.e., in fall elections a reporting unit must consist of the same congressional, senate and assembly districts; in the spring, a reporting unit must consist of the same county supervisory and municipal districts).

S

Section 6.95: see “Challenged Ballot.”

Section 6.96: notation used to indicate ballots that were cast after the close of the polls pursuant to a court order. If the election inspectors are informed that a court has issued an order extending the hours that the polling place is open beyond 8:00 p.m., a voter entering the polling place after that time will also have his or her ballot marked with the notation “Section 6.96.”

Special Voting Deputy: an individual appointed by the municipal clerk or board of election commissioners to carry out absentee voting in certain residential facilities and qualified retirement homes. At least two special voting deputies must be appointed for each municipality in which one or more residential care facilities have at least five registered voters and at least one absentee ballot request on file. Special voting deputies must take the Oath of Special Voting Deputy (EL-155) before entering into his/her duties and must undergo at least one training program every two years. See the *Absentee Voting in Residential Care Facilities and Retirement Homes* manual for more information.

Spring Election: the election held on the first Tuesday in April to elect non-partisan judicial, educational, municipal, county officers, and sewerage commissioners.

Spring Primary: the primary held on the 3rd Tuesday in February to nominate nonpartisan candidates to be voted for at the spring election.

Supplemental Poll List: the Supplemental Poll List is divided into two separate sections: the Pre-Printed Supplemental Poll List and the Handwritten Supplemental Poll List. The Pre-Printed Supplemental Poll List generated from WisVote contains the names of all voters that registered during the late registration period until the poll list was printed in preparation for Election Day. The Handwritten Supplemental Poll List will contain the names and addresses of electors who registered in the municipal clerk’s office after the Pre-Printed Supplemental Poll List is printed and will also contain the names of voters who register on Election Day.

T

Tabulator: a person selected and employed by the municipal clerk to help count votes cast by paper ballot after the close of the polls. The governing body of the municipality may authorize

the use of tabulators not less than 30 days before the election. Tabulators are under the direction of election inspectors. Tabulators may also be used to assist in counting votes in a recount.

Test Deck: a pre-audited group of ballots marked to record a predetermined number of valid votes for each candidate and on each referendum. The test deck is used to ensure that electronic voting equipment is reliable and accurate.

V

Voter List: see “Poll Book.”

Voter Registration: the process by which an elector registers to vote. All electors, except for military electors, are required to register to vote. Registration is accomplished by completing the Voter Registration Application (EL-131) at the clerk’s office, through “Click and Mail” on the MyVote Wisconsin website, by election registration official, by mail, or at the polling place on Election Day.

Voter Registration Application (EL-131): the form prescribed by the Wisconsin Elections Commission to register an individual to vote in Wisconsin.

Voter-Verified Paper Audit Trail (VVPAT): refers to the requirement under Wis. Stat. §5.91(18), that all direct recording electronic (DRE) voting systems produce a complete, permanent paper record showing all votes cast by the elector. The voter-verified paper audit trail (VVPAT) is considered the official ballot and is to be used in a recount of each vote cast by the elector.

W

Wisconsin Elections Commission (WEC): refers to the new agency formed on June 30, 2016 when the Government Accountability Board was split into the Wisconsin Elections Commission and Wisconsin Ethics Commission.

WisVote: a single, centralized, computerized statewide voter registration list managed by the Wisconsin Elections Commission. WisVote is used by state, county and municipal election officials to maintain a list of registered voters, manage and produce voter lists, process absentee and provisional ballots, and to manage a wide variety of other election-related activities.



Wisconsin Elections Commission

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DATE: For the **January 24, 2024**, Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Prepared and Presented by:
Jim Witecha
Chief Legal Counsel

SUBJECT: Consideration of Recount Manual Revisions

Purpose & Orientation

This memorandum and its attachments present suggested edits to the Election Recount Procedures manual to ensure that the guidance therein is consistent with statutory requirements and litigation decisions, as well as improvements to readability and compliance assessments.

- Appendix A – Legal Revision Chart (Election Recount Procedures)
- Appendix B – Redline of Election Recount Procedures manual showing proposed changes.

The majority of the recommended updates referenced in this memo required significant review and represent a large number of proposals by staff. Accordingly, these updates were grouped together so that the Commission may carefully consider the proposed language, the optional language, and the legal questions presented. Each category below has been assigned a color and a topic identifier. Both are present on the chart included as Appendix A. The chart also contains a column identifying the page number of each respective manual on which the proposed redline changes appear.

These topics include:

Color Code	Topic	Corresponding Line Numbers in Appendix A (Election Admin.)
Blue	Typo/Formatting	2, 3, 4, 6, 7, 8, 12, 14, 15, 16, 19, 20, 21, 24, 35, 38, 41, 42, 47, 49, 50, 51, 52, 53, 55
Orange	Commission Directives	5, 28, 54, 63
Green	7.08(3)(c) Manual Maintenance	9, 10, 11, 13, 17, 18, 22, 23, 25, 26, 27, 29, 30, 31, 32, 33, 34, 36, 37, 39, 40, 43, 44, 45, 46, 48, 56, 57, 58 59, 60, 61, 62

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

Typo/Formatting

These changes reflect nominal revisions, not requiring any substantive discussion in this meeting. However, staff are standing by to discuss or answer questions as needed.

Possible Motion for this Topic: The Wisconsin Elections Commission (“the Commission”) directs staff to implement changes from Appendix A, as color coded blue, the “Typo/Formatting” category into the Election Recount Procedure manual. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Commission Directives

These changes, or relevant highlighted sections, are designed to prompt the Commission to revisit or reconsider portions of the manual that are based on general directives issued by the Commission in the past.

Possible Motion for this Topic: The Commission directs staff to implement changes, otherwise modify, or add/remove content from the Election Recount Procedures manual, all content from Appendix A as color coded orange, in accordance with the Commission’s guidance or decisions rendered at its January 24, 2024, meeting. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

7.08(3)(c) Manual Maintenance

These changes, or relevant highlighted sections, are designed to have the Commission consider changes to portions of the manual that require more substantive analysis, compliance-based changes, or the examination of other complex topics.

Possible Motion for this Topic: The Commission directs staff to implement changes, otherwise modify, or add/remove content from the Election Recount Procedures manual, all content from Appendix A as color coded green, in accordance with the Commission’s guidance or decisions rendered at its January 24, 2024, meeting. The Commission further authorizes staff to make formatting, numbering, and other scrivener’s edits to the manuals consistent with effectuating these changes.

Section	Page	Action Taken	Material	Type of Update	Why?
Cover Page	N/A	Modify	Updated proposed revision date for the manual.	Typo/Formatting	Proposing a new revision date for the cover page of "January 2024," as a placeholder in case the Commission approves the manual for re-publication with these changes at its January meeting.
Cover Page	N/A	Modify	Updated web address.	Typo/Formatting	Updated the agency's website address from "http" to "https" and ensured the hyperlink is correct.
Table of Contents	N/A	Modify	Placeholder: New page numbers.	Typo/Formatting	Agency staff will need to update the new page numbers in the Table of Contents once the redlines are accepted and the draft is ready to be finalized.
Table of Contents	N/A	Modify	Unhighlighted "Public Health Guidance."	Commission Directives	The Commission previously approved public health guidance as an addition to the recount manual in 2020. It was also left highlighted to show which changes had been made from the prior version. All references are unhighlighted and left as potential permanent additions.
Introduction	N/A	Delete	Remove "Introduction" page.	Typo/Formatting	Staff propose removing this page in its entirety. It is unnecessary, portions are worded in an undesirable way, and other components are redundant.
All Sections	All	Add	Hyperlinks added to all statutory cites.	Typo/Formatting	Note to the Commission: In the conversion to this new manual document, all of the existing hyperlinks were lost. Subsequently, all statutory citations will now show up as a redline because a link was added. Some were incorrect, needed additional cites, or otherwise needed to be updated, so they all remain redlines. Those that were incorrect or changed in any way will also show the changes made and have an entry in this chart.
Who May Request a Recount?	1	Modify/Add	Statutory addition and format correction.	Typo/Formatting	The formatting of statutory citations in this manual was inconsistent, particularly with dual/multiple citation. This format was selected and applied throughout. The second subsection cited here was also added to the manual for proposed publication.
Who May Request a Recount?	1	Modify / Add / Move	Section reworked for clarity and deletion of duplicative material.	7.08(3)(c) Manual Maintenance	This section was generally reworked for clarity, to shift items to a more logical location, to modify misleading statements, and to delete information already covered in more appropriate sections of the manual.
How is a Recount Requested?	1	Modify/Delete	Conforming language to statute and removing duplicative material.	7.08(3)(c) Manual Maintenance	This section was modified to more closely conform to statute, address a referendum petition, and remove information covered in a specific section later in the manual.
What is a Recount Petition?	1,2	Modify	Various changes.	7.08(3)(c) Manual Maintenance	<u>Subsection 1:</u> Removed. This is not a separate requirement. Subsection 3 below covers 9.01(1)(a)3., which requires that the wards to be recounted be named, or that a recount of all wards be conducted. <u>Subsection 2:</u> Modified for clarity and reference to other sections. <u>Subsection 3:</u> Removed "general," as this is not found in statute and contradicts the statement that the petitioner is "informed," which is found in statute. The word "shall" is highlighted for further Commission consideration. The requirement in this sentence is not directly required by statute. However, the petition is to be "informed, valid, sworn," etc., and the Commission would be best served keeping someone kind of statement here. This type of assertion aligns with similar statements in the Commission's standard "Complaint Form (EL-1100)." That said, the Commission may wish to change this word from "shall" to something less directive in nature.

Section	Page	Action Taken	Material	Type of Update	Why?
What is a Recount Petition?	3	Modify	Rewording for clarity.	Typo/Formatting	Simply rewording this sentence to restate it more directly.
What is a Recount Petition?	3	Modify	Updated "Sample Recount Petition" form numbers.	7.08(3)(c) Manual Maintenance	EL-186R is no longer a published sample document. These proposed manual edits would add a link to EL-186 and EL-187 on the new website page for the sample petition documents. These same changes are applied again in the manual.
What is a Recount Petition?	2	Modify	Updated Wis. Stat. s. 9.01 references.	Typo/Formatting	The second to last paragraph in this section needed to be updated to correct the citation itself, as well as the subsections being cited. The citation was missing a period. Additionally, the manual's citations should be broader. It only cites specific fee provisions, but ignores the form requirements for a petition found throughout subsection (1)(a).
When is a Filing Fee Required?	3	Modify	Rewording for clarity.	Typo/Formatting	Simply rewording this paragraph to restate it more directly or better comply with statute.
When is a Filing Fee Required?	3	Modify	Updated statutory citation format.	Typo/Formatting	This is nothing more than a formatting change to reflect the proper/consistent dual citation format now used throughout the manual.
When is a Filing Fee Required?	3	Delete	Delete Footnote 2.	7.08(3)(c) Manual Maintenance	Covered in the body text and edited. Footnote now redundant.
When is a Filing Fee Required?	5	Modify/Delete	Corrections to comply with statute.	7.08(3)(c) Manual Maintenance	Corrections made to comply with statute which states: "For purposes of this subdivision, a petitioner has not overpaid the fees due under subd. 2., and is therefore not entitled to a refund under this subdivision, if the recount results in a difference in the votes cast that is below the threshold for paying the fee under subd. 2."
When is a Filing Fee Required?	5	Modify	Spelling corrections and clarity corrections.	Typo/Formatting	Two instances of the word "threshold" were corrected to the proper spelling (if one is kept) .
Campaign Finance Note:	5	Modify	Update to the Ethics Commission website address.	Typo/Formatting	The Ethics Commission has a new website, and the web address and hyperlink have been updated.
Where Does the Petitioner File the Recount Petition?	5	Modify	Updated statutory citation format.	Typo/Formatting	This is nothing more than a formatting change to reflect the proper/consistent dual citation format now used throughout the manual.
When Must the Petition be Filed?	5	Add	Added language to conform with statute.	7.08(3)(c) Manual Maintenance	Language was added to note the focus of Wis. Stat. s. 9.01(1)(a)1. on "valid provision ballots" and canvass completion.
What Happens When the Petition is Properly Filed?	6	Add / Delete / Modify	Reworked for clarity and statutory specificity.	7.08(3)(c) Manual Maintenance	¶1: Added a reference to a valid petition possibly requiring a filing fee as well. Also added a note that independent candidates, with ballot access, must also receive notice of petition filing. ¶3: Removed "in order" for conciseness. Moved the statutory reference up, because that provision of statute specifically prescribes the first portion of this paragraph.
When Does the Recount Begin?	6	Modify	Corrected inverted statutory citations.	Typo/Formatting	These two Wis. Stat. s. 9.01(1) citations were transposed and associated with the wrong sentences.
When Does the Recount Begin?	6	Add	Added statement on petition delivery to candidates.	7.08(3)(c) Manual Maintenance	Given the statutory requirements relating to the delivery of petitions to candidates, specifically that the recount begins the next morning, it is logical to infer that petition delivery must occur immediately when the petition is filed on the last allowable day.

Section	Page	Action Taken	Material	Type of Update	Why?
When Does the Recount Begin?	6	Flag	Highlighted sentence for Commission consideration.	7.08(3)(c) Manual Maintenance	It is unclear why this statement excludes Sunday. Additionally, the county clerks requested that "recommends" be changed to something like "suggests," "evaluate whether," or "delay as little as possible." This suggestion is simply to soften the language, and not make seem like the Commission is firmly "recommending."
Who May Attend the Recount?	8	Add / Delete / Modify	Various changes.	7.08(3)(c) Manual Maintenance	Various items were moved, added, or deleted for clarity and compliance. A review was also performed with the ongoing admin rule efforts in mind, but not yet totally accounted for, given that the rule is unpromulgated.
Who May Attend the Recount?	8	Modify	Recommend de-highlighting the text.	Commission Directives	New additions from 2020 remain highlighted, as staff was then directed. Staff recommend removing the highlights if the Commission wishes to keep the text.
Recount Preparations	10	Add/Delete	Recommended changes.	7.08(3)(c) Manual Maintenance	This seems oddly phrased – the BOC has the statutory authority to determine the recount method(s), and using words like informal/prefers almost makes it sound like the filing officer can overrule the BOC if they disagree. This is also flagged for Commission consideration and possible deletion, because the BOC meeting is a public meeting, and making these decisions outside of canvass/meeting could be subject to challenge and constitute a walking quorum. The Commission could schedule a brief virtual or in-person meeting to discuss if the Commission thinks it important/necessary.
What Does the Board of Canvassers Do?	12	Add / Delete / Modify	Recommended changes.	7.08(3)(c) Manual Maintenance	¶1: Reworded to more closely comply with requirements. Also moved up statement on possible usage of a recorder from later paragraph. ¶3: Citation is deleted, as it does not support the bullets directly. The first sentence is removed as redundant, and the second have been moved up.
Review Absentee Ballot Materials	13,14	Delete	Remove the "Examine Written Absentee Applications" section.	7.08(3)(c) Manual Maintenance	Not required by statute and may give the impression it is. Recommended change by staff and clerk working group.
Review Absentee Ballot Materials	14	Add	Adding suggested language to "Review Rejected Absentee Ballots" section.	7.08(3)(c) Manual Maintenance	Added a statement on what constitutes a defective absentee ballot certificate pursuant to the recount statutes.
Review Absentee Ballot Materials	14	Delete	Remove the word "Defective" from the title "Examine Defective Absentee Ballot Envelopes."	7.08(3)(c) Manual Maintenance	Change "Examine Defective Absentee Ballot Envelopes" to "Examine Absentee Ballot Envelopes." Statute says that the Board of Canvassers should examine all absentee ballot envelopes. While the content found under this title alludes to examining all the envelopes, changing the title of this step would marry the title to the content and minimize confusion.
Review Absentee Ballot Materials	14	Add	Add a reference to each new absentee ballot certificate type.	7.08(3)(c) Manual Maintenance	Add a reference to each of the new absentee ballot certificate types recently approved by the Commission (EL-122, EL-122M, EL-122SVD, EL-122S). This will be one more way to remind officials of the recent change and reference each of the documents for clarity purposes.
Review Absentee Ballot Materials	14	Delete	Delete errant reference to EL-101.	Typo/Formatting	This section refers to the EL-101 twice, including when the text is only referencing the ballot bag/container, and not the Certificate. The first reference has been redlined, because this is not a reference to the Certificate. Another edit was applied to change the name from "Certification" to "Certificate," which is the proper title of the template form.

Section	Page	Action Taken	Material	Type of Update	Why?
Examine Ballot Bag or Container	15	Delete	Deleted footnote.	7.08(3)(c) Manual Maintenance	FN5: 6.86(1)(ar) Except as authorized in s. 6.875 (6), the municipal clerk shall not issue an absentee ballot unless the clerk receives a written application therefor from a qualified elector of the municipality. There are exemptions to the application requirement...SVD voting, etc. That said, nothing in statute requires applications to be on hand or reviewed during recount. Additionally, some applications may be confidential or require some redaction. Finally, some clerks do not perform this process during a recount anyway, and a clerk working group recommended removal of this section, as it "may give candidates the impression that they have the right to review the applications during a recount." This question was raised in Werner v. Dankmeyer (22-CV-555), but was not resolved (i.e. Whether "...Wis. Stat. § 9.01(1)(b)11...provides a right to review election materials," including absentee ballot applications during a recount. The cited provision of statute does note that the processes will be open and materials may be reviewed, and applications may be subject to review under other provisions of law, but that does not mean they need to be on hand and reviewed by recount canvassers. Additionally, staff recommend not citing un-linked and informal opinions of the former agency. The Paulson case also does not support this contention and must also be discussed.
Examine Ballot Bag or Container	15	Delete	Deleted footnote.	7.08(3)(c) Manual Maintenance	FN7: Deleted, moved into the text above, and more correctly stated.
Reconcile Ballot Count	16	Modify	Corrected abbreviated Wis. Stat. s. 9.01 citations.	Typo/Formatting	Two provisions of Wis. Stat. s. 9.01 were not only abbreviated in a slightly confusing manner, they were also improperly cited using parens rather than a period. The full cite was added and hyperlinked.
Reconcile Ballot Count	9	Delete	Remove "...and the number of written applications..."	7.08(3)(c) Manual Maintenance	This is proposed to be deleted in accordance with the analysis in Row 31 above. It is also unclear whether this statement is correct, because the number of applications may not align with the total number of absentee ballots, much less the "probable" number of absentee ballots. Again, some voter types need not submit an application.
Reconcile Ballot Count	16	Highlight	Highlighted sentence for Commission consideration.	7.08(3)(c) Manual Maintenance	This is non-statutory, but a very common sense thing to do, and runs no compliance risk. Simply flagging for the Commission to consider whether it should remain.
Reconcile Ballot Count	16,17	Modify	Footnote deleted and moved to the body.	Typo/Formatting	FN8: This footnote was deleted and moved to the text in the body of the document.
Reconcile Ballot Count	16,17	Modify	Footnote deleted.	Typo/Formatting	FN9: Footnote was removed. The procedures discussed are required and addressed later in this document. FN10, on page 18, is deleted for the same reason.
Reconcile Ballot Count	16	Add/Delete	Various changes.	7.08(3)(c) Manual Maintenance	Various edits made for the purposes of better stating the intent of this section.
Reconcile Ballot Count	18	Add	Added language to conform with statute.	7.08(3)(c) Manual Maintenance	Statute also references "executive director and secretary," and may allow for other individuals. This edit accounts for the fact that the initialing party may be an authorized person who is not the clerk or deputy clerk.

Section	Page	Action Taken	Material	Type of Update	Why?
Reconcile Ballot Count	18	Highlight	Subsection 5, "Review Provisional Ballots," has been highlighted temporarily.	7.08(3)(c) Manual Maintenance	This section was highlighted only to draw the Commission's attention to a specific question for review. A working group of Wisconsin's clerks recommended removal of this section, noting that it is not required by statute, should be optional at the canvassers' discretion, and inclusion of this section in the manual creates a perception that the candidates should view this process as mandatory. WEC staff make no recommendation as to keeping or removing this section, but they are standing by to discuss as may be necessary. The Commission could also opt to make it clear that this process is prudent but not required.
Count the Votes	19	Add	Addition referencing public records.	7.08(3)(c) Manual Maintenance	While non-relevant results need not be included in the BOC report, it may be wise/required to keep them for record or archival purposes.
Reconcile Ballot Count	21	Modify	Fixed the statutory citation format and added hyperlinks.	Typo/Formatting	No statutory citations were added. These changes are only a correction of the formatting.
Reconcile Ballot Count	21	Highlight	The section titled "Compare Duplicate Ballots with Original Ballots" has been highlighted temporarily.	7.08(3)(c) Manual Maintenance	This section was highlighted only to draw the Commission's attention to a specific question for review. A working group of Wisconsin's clerks recommended consideration of the removal of this section, noting that it is not required by statute, should be optional at the canvassers' discretion, and inclusion of this section in the manual creates a perception that the candidates should view this process as mandatory. WEC staff make no recommendation as to keeping or removing this section, but they are standing by to discuss as may be necessary. The Commission could also opt to make it clear that this process is prudent but not required. If the Commission opts to keep the section, it may wish to add similar content to the hand count portion of the manual as well.
Reconcile Ballot Count	23	Modify	Corrected "see Step #8" to say "see Step #9."	Typo/Formatting	There is no step #9 in the manual. This reference should have been to step #8.
Reconcile Ballot Count	23	Modify	Corrected the misspelling of "individuals."	Typo/Formatting	Corrected a misspelling in the first paragraph of subsection 3.
How Does a Candidate or Petitioner Challenge the Recount Results	24	Modify	Fixed the statutory citation format and added hyperlinks.	Typo/Formatting	No statutory citations were added. These changes are only a correction of the formatting.
Conclusion	25	Modify	Updated web address.	Typo/Formatting	Updated the agency's website address from "http" to "https" and ensured the hyperlink is correct.
Appendix Table of Contents	N/A	Modify	Placeholder: New page numbers.	Typo/Formatting	Agency staff will need to update the new page numbers in the Table of Contents once the redlines are accepted and the draft is ready to be finalized.
Appendix Table of Contents	N/A	Modify	Unhighlighted "Public Health Guidance."	Commission Directives	The Commission previously approved public health guidance as an addition to the recount manual in 2020. It was also left highlighted to show which changes had been made from the prior version. All references are unhighlighted and left as potential permanent additions.
Sample Recount Petition	N/A	Modify	Corrected the misspelling of "aggrieved" and flagging the incorrect address.	Typo/Formatting	Pointing out a spelling error, and highlighted the need for an updated WEC address. This likely warrants Commission approval and a new revision date.

Section	Page	Action Taken	Material	Type of Update	Why?
Sample Recount Petition	N/A	Flag	Subsection 4 is flagged for discussion.	7.08(3)(c) Manual Maintenance	The clerks working group recommended removing this as "3." is required by statute, but "4." is not. That is wrong. That statute does require this in the second portion: "...or that another specified defect, irregularity, or illegality occurred in the conduct of the election." This is essentially a second option beyond an allegation of a counting-based mistake or fraud. That said, I am not sure providing more detail in a petition is a bad idea regardless, and legal recommends keeping this section.
Sample Recount Petition for Referendum	N/A	Flag	Subsection 3 is flagged for discussion.	7.08(3)(c) Manual Maintenance	Same concern from the clerk's working group in Subsection 3, and same address issue if we open this draft for revision.
Sample Recount Minutes	N/A	Modify	Added "If Applicable" in reference to absentee ballot application review.	7.08(3)(c) Manual Maintenance	WEC staff recommend keeping the reference to the applications, unless the Commission says application review is mandatory. Otherwise, some municipalities are likely to carry out this process regardless, and keeping the option in the checklist would be beneficial. So, "if applicable" was added to address the clerk working group's concerns.
Checklists	8, 9, 10, 11	Delete	Removed reference to absentee ballot application review in each of the checklist templates.	7.08(3)(c) Manual Maintenance	These references to application review can be removed or edited in accordance with the Commission's decision on the matter in Row 31 above.
Checklists	8, 9, 10, 11	Delete	Potentially remove various references to the review of provisional ballots.	7.08(3)(c) Manual Maintenance	References to review of provisional ballots may be removed or listed as "If Applicable," depending on the Commission's decision above.
Checklists	9, 10, 11	Add	Added references to absentee certificate review in each checklist.	7.08(3)(c) Manual Maintenance	An addition to each "Absentee ballot review:" section is proposed, so that the process now references a review of "all certificates."
Checklists	10	Delete	Remove item "Compare duplicate ballots with original ballots."	7.08(3)(c) Manual Maintenance	Reference to comparing duplicate ballots with original ballots may be removed or edited in accordance with the Commission's decision above.
Two Memos	12, 13, 14, 15, 16, 17, 18	Delete	Remove these memos as appendices to the manual.	Commission Directives	These memos are no longer necessary. The substantive and correct portions have been codified into the manual's text or into guidance issued by the Commission. There are some elements that may otherwise require clarification for compliance purposes, and it is not worth amending old memos for that purpose (e.g. drawdown as required by statute without clarification in the memo).

ELECTION RECOUNT PROCEDURES

January 2024



Wisconsin Elections Commission

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Table of Contents

Procedures for Requesting a Recount	1-3
Who May Request a Recount?	1
How is a Recount Requested?	1
What is a Recount Petition?	1-2
When is a Filing Fee Required?	2
Campaign Finance Note	3
Where Does the Petitioner File a Recount Petition?	3
When Must the Petition Be Filed?	3
What Happens When the Petition is Properly Filed?	4
Procedures for Conducting the Recount	4-13
When Does the Recount Begin?	4
Who Conducts the Recount?	4
Who May Attend the Recount?	4-5
Recount Preparations	5-6
What Does the Board of Canvassers Do?	6
How Does the Board of Canvassers Conduct the Recount?	6-13
After the Recount	14
What Does the Board of Canvassers Do After the Recount?	14
How Does a Candidate or Petitioner Challenge the Results?	14
<hr/>	
Appendix	
Sample Forms	1-6
Recount Petition	1
Recount Petition for Referendum	2
Order for Recount	3
Public Notice of Recount	4
Acceptance of Service	5
Recount Minutes	6
Recount Fee Scenarios	7
Recount Checklists	8-11
Supplies and Materials	8
Paper Ballot	9
Optical Scan	10
Direct Recording Electronic (DRE)/Touch Screen Voting	11
Commission Staff Memorandum: Construction of Wis. Election Stats.	12-15
Directory vs. Mandatory Application of Statutes	12-13
Election Official Error vs. Voter Error	14
Board of Canvassers Discretion	14-15
Public Health Guidance	16

Introduction

Elections are often decided by a few votes. In many cases they are decided by one or two votes out of the several hundred or even several thousand votes that are cast. An election may even end in a tie vote. These circumstances encourage a candidate, typically the one who loses the election, to have all the ballots counted again to assure all legal votes are counted properly, any illegal votes are not counted, and the proper procedures for conducting the election were followed by the election officials.

The process of counting the ballots again is known as a recount. There is no automatic recount. The procedures for requesting and conducting a recount are spelled out in the election laws. A recount is the exclusive remedy to test in court the right of a candidate to hold office based on the number of votes cast at an election.

This manual explains the statutory requirements for requesting a recount, attempts to explain ambiguity in those statutes, expands on the statutory requirements with recommended procedures for conducting a recount, and contains sample forms for use during the recount. Additionally, the Appendix to this manual includes a Commission staff memorandum on the construction of Wisconsin's election statutes which in some cases can influence the advice rendered by Commission staff to board of canvassers conducting a recount. The advice is rendered on a case-by-case basis and is intended to "give effect to the will of the electors" when making decisions during a recount. This memorandum also outlines the discretion board of canvassers may exercise when making decisions during a recount and provides analysis of situations where the board of canvassers considers if an error in the election process was made by a voter or an election official and how that difference impacts the tallying of votes.

This information is prepared by the Wisconsin Elections Commission ("WEC" or "Commission") pursuant to the requirements of . If you have any questions about the recount process, please contact Commission staff through any of the methods below:

Phone: 608-261-2028
Toll Free: 866-VOTE-WIS
Fax: 608-267-0500
Email: elections@wi.gov

Procedures for Requesting a Recount

Who May Request a Recount?

~~Any candidate voted for at any election who is an aggrieved party may petition for a recount of the election, and Recounts can be requested by any candidate voted for at any election who is an aggrieved party, or by any~~ Any individual who voted at a referendum election may ~~request petition~~ request petition for a recount of the referendum results. ~~There is no automatic recount in Wisconsin, even if the unofficial results are extremely close.~~

~~An aggrieved candidate is defined differently depending on the total number of votes cast for an office. If there are 4,000 or fewer total votes cast for an office, a candidate who trails the leading candidate by no more than 40 votes is an aggrieved candidate, but if there are more than 4,000 votes cast for an office, a candidate who trails the leading candidate by no more than one+ percent of the total votes cast for that office is an aggrieved candidate. Wis. Stat. § 9.01(1)(a)1. & 9.01(1)(a)5.~~

~~A leading candidate is every individual whose vote total would entitle the individual to election or nomination to the office sought, which accounts for contests in which more than one person may be elected. Wis. Stat. § 9.01(1)(ag)5. If more than one office of the same type is to be filled in an election from the same territory, the number and percentage of votes cast under this paragraph shall be determined by first dividing the total number of votes cast for the office by the number of offices being filled at the election from the same territory. Id. Only an aggrieved candidate, defined as a candidate for an office whose total votes were within 1% of the winner's vote total when at least 4,000 votes were cast or within 40 votes of the winner's total if fewer than 4,000 votes were cast may request a recount of results for an office. Wis. Stats. §§ 9.01(1)(a)1 & (1)(a)5. There is no automatic recount, even if the unofficial results are extremely close.~~

How is a Recount Requested?

A recount is requested by filing a valid, sworn petition with the filing officer or, in the case of a referendum, with the clerk of the jurisdiction in which the referendum is called, along with the filing fee, if required. ~~For the office of the president, a petition for recount must be filed not earlier than the completion of the canvass and not later than 5 p.m. on the 1st business day following the day on which the WEC receives the last county board of canvassers statement. For all other offices, a petition for recount must be filed not earlier than the completion of the canvass and not later than~~

~~5 p.m. on the 3rd business day following the last meeting day of the board of canvassers determining the result for the office/referendum. Wis. Stat. § 9.01(1)(a)1, & 9.01(1)(ar)1. & 2.~~

What is a Recount Petition?

A recount petition is a sworn statement requesting that the votes at an election be counted again, with the petitioner and setting out the reasons why the ballots should be recounted. A recount petition must be filed with the filing officer, along with any applicable fee.

The recount petition must state the following information:

- ~~1. The petitioner must specifically request a recount or otherwise clearly indicate they desire a recount of particular election results. See Wis. Stat. § 9.01(1)(a)1.~~

2.1. That ~~the petitioner must indicate he or she was is~~ either an aggrieved candidate (defined above and here: [Wis. Stat. § 9.01\(1\)\(a\)5](#)) for the office in question ~~Wis. Stat. § 9.01(1)(a)5~~. ~~If the results of a referendum election are at issue, the petition must state that the petitioner or a voter who voted on the referendum question in question.~~ [Wis. Stat. § 9.01\(1\)\(a\)2.a & c.](#)

Field Code Changed
Field Code Changed

3.2. The basis for requesting the recount. This can consist of a ~~general~~ statement that the petitioner ~~is informed and~~ believes that a mistake or fraud was committed in a specified ward or municipality in the counting and return of the votes cast for the office ~~or upon the referendum;~~ ~~or the petitioner may state that another specified or more specific grounds, such as a particular~~ defect, irregularity, or illegality ~~occurred~~ in the conduct of the election; ~~may be listed in the petition.~~ The petitioner ~~shall~~ state if this information is based on personal knowledge of the petitioner or if the petitioner believes the information to be true based on information received from other sources. [Wis. Stat. § 9.01\(1\)\(a\)2.b.](#)

4.3. The ward or wards to be recounted.¹ If a municipality consists of only one ward, the petition

¹ If a candidate petitions for a recount in part, but not all, of the wards or municipalities within a jurisdiction or district, the opposing candidate may file a petition for a recount in any or all of the remaining wards or municipalities. The latter petition must be filed not later than 5:00 p.m. two days after the board of canvassers completes the first recount. The board of canvassers convenes at 9:00 a.m. on the next business day to count the remaining wards or municipalities. This right also applies to a referendum election. Any elector who voted at the election may petition to recount the remaining wards or municipalities in a referendum election. [Wis. Stat. § 9.01\(4\).](#)

need only list the municipality in which the recount is desired. If all wards in a municipality, county or district are to be recounted, the petition may list the municipality, county or district without specifying each ward to be recounted. The petitioner may also state “all wards” if the petitioner wants the entire election recounted. If no ward specifications are indicated, the filing officer will assume that all wards are included. [Wis. Stat. § 9.01\(1\)\(a\)3](#).

~~A-The petition must be verification-verified, meaning that it is~~ signed under oath before a person authorized to administer oaths. The verification must state that the matters contained in the petition are known to the petitioner to be true except for allegations stated on information and belief, which the individual believes to be true. See Sample Recount Petition ([EL-186 or EL-1876R](#)).

If a recount petition is not filed in the proper form, or not accompanied by the filing fee (if required) by the filing deadline, the petitioner loses his or her right to a recount of the election. See Wis. Stats. §§ [9.01\(1\)\(a\)2](#) & [\(1\)\(ag\)](#). A sample recount petition ([EL-186 or EL-187](#))~~(EL-186 or EL-186R)~~ is available in the Appendix.

After filing the recount petition, the petitioner may amend the petition. This may be done to include information discovered as a result of facts gathered and determined by the board of canvassers during the recount. If the petitioner wants to amend his or her petition, the petitioner must file a motion to amend the petition with the board of canvassers as soon as possible after the petitioner discovers, or should have reasonably discovered, the new information, and show that the petitioner was unable to include the information in the original petition. [Wis. Stat. § 9.01\(1\)\(a\)4](#).

When is a Filing Fee Required?

Determining if a filing fee is required depends on the total votes cast for the office² and the difference between the total votes cast for the leading candidate and the total votes cast for the petitioner. ~~The “leading candidate” is typically the candidate who won the election. However, i~~In an election where more than one candidate is elected to the same office, or in a primary election when two or more candidates are nominated, the “leading candidate” is the person who received the fewest votes ~~that would still entitle the candidate to election or nomination to office, but is still elected or nominated~~; not the candidate with the most votes. When more than one candidate is elected or nominated from the same territory, the number and percentage of votes cast is calculated by first dividing the total votes cast for the office by the number of candidates elected or advancing offices being filled at the election from the same territory. [Wis. Stat. § 9.01\(1\)\(ag\)5](#). Please see “Recount Fee Scenarios” in the Appendix for an example of how to determine if a filing fee is required.

If 4,000 or fewer votes are cast:

No fee is required if the difference in the total votes cast between the leading candidate and those cast for the petitioner or between the affirmative and negative votes cast at a referendum is less than 10. If the difference is at least 10 votes, a filing fee is required.

If more than 4,000 votes are cast:

No fee is required if the difference between the leading candidate and those cast for the petitioner or between the affirmative and negative votes cast at a referendum is 0.25% or less. If the difference is greater than 0.25%, a filing fee is required.

When a filing fee is required, the cost of the recount should be estimated by the filing officer.

²~~In an election in which more than one office of the same type is to be filled from the same territory, the total votes cast for the office is determined by dividing the total number of votes cast for the office by the number of offices to be filled. The difference between the total votes cast for the leading candidate and the petitioner is divided by the total votes cast~~

| for the office to calculate the percentage difference to determine when a fee is required. [Wis. Stat. § 9.01\(1\)\(ag\)5.](#)

including the actual cost incurred by the Wisconsin Elections Commission to provide services for performing the recount, and pre-paid by the petitioner in cash or in another form of payment acceptable to the filing officer at the time of filing. [Wis. Stats. §§ 9.01\(1\)\(ag\)2 and \(1\)\(ag\)3.](#)

If the recount results in the petitioner ~~being elected~~ [becoming a leading candidate](#) or a reversal of the outcome of a referendum ~~or the recount results in a difference in the votes cast that is at or above the threshold~~ [threshold for paying the fee](#), the filing fee shall be refunded to the petitioner within 45 days after the board of canvassers makes its determination in the recount. If the results of the recount do not change the outcome of the election, or the recount results in a difference in the votes cast that is below the ~~threshold~~ [threshold](#) for paying the fee, the petitioner shall pay any balance owing toward the actual cost of the recount within 45 days after the filing officer provides the petitioner with a written statement of the amount due. [Wis. Stat. § 9.01\(1\)\(ag\)3m.](#)

Campaign Finance Note:

Per Wis. Stat. § 11.1104(9), “Contributions used to pay legal fees and other expenses incurred as a result of a recount under s. 9.01” are not subject to contribution limits. These contributions may be collected from the time of the initial recount petition has been filed until the recount process ends. Legislative campaign committees and political parties are not subject to contribution limits, and can give unlimited amounts to candidate committees. ~~H~~ [however](#), reporting requirements still apply. For information regarding the campaign finance laws, please contact the Wisconsin Ethics Commission (<https://ethics.wi.gov/Pages/AboutUs/ContactUs.aspx> ~~http://ethics.wi.gov/content/contact-us~~).

Where Does the Petitioner File the Recount Petition?

The petitioner files the recount petition with the filing officer with whom nomination papers or a declaration of candidacy are filed for that office. The filing officer for any federal or state office or referendum is the Wisconsin Elections Commission. The filing officer for any county office or referendum is the county clerk. The filing officer for a municipal office or referendum is the municipal clerk or the board of election commissioners. The filing officer for a school board office or referendum is the school district clerk. [Wis. Stats. §§ 8.10\(6\)\(d\) & 9.01\(1\)\(ar\)1.](#)

When Must the Petition be Filed?

If a municipal or county board of canvassers determines the election results, the time frame for filing is not earlier than the completion of the canvass [of all valid provisional votes](#) for the election and not later than 5:00 p.m. on the third business day after the last meeting day of the [last](#) board of canvassers which ~~makes a determines determination following canvassing of all valid provisional ballots for~~ [the election or referendum results.](#) [Wis. Stat. § 9.01\(1\)\(a\)1.](#)

If the Wisconsin Elections Commission Chairperson or designee determines the election or referendum result, the petition must be filed no earlier than the last meeting day of the last county board of canvassers to make a statement in the election or referendum and no later than 5:00 p.m. on the third business day after the Wisconsin Elections Commission receives the last statement from the county board of canvassers. [Wis. Stat. § 9.01\(1\)\(a\)1.](#)

For an election for President of the United States, the recount petition deadline is the 5:00 p.m. on the first business day after the Wisconsin Elections Commission receives the last statement from a county board of canvassers for the election.

What Happens When the Petition is Properly Filed?

Upon receipt of a valid recount petition, and once the fee (if applicable) has been paid, the filing officer shall prepare a public notice of the recount (see Appendix for an example) pursuant to Wis. Stat. § 19.84 describing when and where the recount will be held. The filing officer shall send a copy of the notice to the board of canvassers and deliver a copy of the petition and public notice to all candidates whose names were listed on the ballot for the same office. The Wisconsin Elections Commission recommends that the filing officer also deliver the notice to any registered write-in candidates. In a partisan primary, candidates from all parties for the same office, including independent candidates with ballot access, must be notified by the filing officer. A candidate or agent designated by the candidate may personally accept delivery of the copy of the petition. Upon delivery, the candidate or agent shall be required to sign a receipt (see Appendix). If a candidate or agent does not personally accept delivery, the copies shall be given promptly to the sheriff. The sheriff shall promptly serve the copies on the candidates without fee. Wis. Stat. § 9.01(2).

The petitioner and other candidates are encouraged to obtain legal counsel to represent them in any recount proceedings. Wis. Stat. § 9.01(3). The board of canvassers should also make arrangements to obtain legal advice as needed during the recount proceedings. The Commission staff may also be made available via phone during the recount upon request.

Please note that the Wisconsin Elections Commission should be notified of all recounts. In the event of a recount for state or federal office involving more than one county, the boards of canvassers shall consult with the Commission staff ~~in order~~ to ensure that uniform procedures are used to the extent practicable. Wis. Stat. § 9.01(10). The Commission staff will make arrangements for a teleconference through the respective county clerks prior to beginning the recount. Candidates will be invited to participate and the teleconference will be open to the public. ~~Wis. Stat. § 9.01(10)~~.

Field Code Changed

Field Code Changed

Procedures for Conducting the Recount

When Does the Recount Begin?

The recount begins no earlier than 9 a.m. on the day following delivery of notice to all candidates and no later than 9 a.m. on the day following the last day for filing the recount petition. Wis. Stat. § 9.01(1)(b) ~~Wis. Stat. § 9.01(1)(ar)3~~. This requires delivery of a valid petition to all candidates the day the petition is filed if it is filed on the last allowable day. In a recount ordered by the Wisconsin Elections Commission, the board of canvassers shall convene no later than 9 a.m. on the third day following receipt of the order by the county clerk. Wis. Stat. § 9.01(1)(ar)3 ~~Wis. Stat. § 9.01(1)(b)~~. If the following morning is a Saturday (or holiday) the Wisconsin Elections Commission recommends that the board of canvassers begin the recount on the Saturday (or holiday).

Who Conducts the Recount?

The board of canvassers that determined the original election result conducts the recount, except for state and federal elections. For state and federal elections, the county boards of canvassers for the counties in which the contested votes are cast conduct the recount. The Wisconsin Elections Commission recommends that the board of canvassers be composed of the same people who initially canvassed the election results. However, in the event one of the original members is unavailable when the recount is scheduled to begin, other qualified individuals may be appointed to fill the temporary vacancy. Wis. Stats. §§ 7.53(1)(b), (2)(a), 7.60(2). If a member of the board

| of canvassers is unavailable for the recount, the clerk should be notified immediately, and a list of qualified replacements composed before the recount begins. The minutes of the recount should reflect any change in canvass board members and the reason for the substitution.

The board of canvassers may hire tabulators who work at the canvass board's direction and who assist in administering the recount. Tabulators may assist the board of canvassers in conducting the recount, but only members of the board of canvassers are competent to make any determination as to the validity of any vote tabulated. [Wis. Stat. § 9.01\(5\)\(b\)](#). The Wisconsin Elections Commission recommends that, ~~when where~~ possible, the election inspectors who worked the polls on Election Day serve as tabulators.

Who May Attend the Recount?

~~Any person may attend the recount. This includes the petitioner, the all opposing candidates, and all interested persons are entitled to be present in person and by counsel to observe the proceedings, their representatives or legal counsel, media representatives, and any other interested persons. Wis. Stat. § 9.01(3). If there are multiple representatives from a single campaign, the Commission recommends that a single representative shall be identified as the designated primary representative to the board of canvassers. Secondary representatives may ask clarifying questions of recount staff and request that ballots be set aside for further review by the board of canvassers, but any challenges or objections for the record must be made by the designated primary representative. The recount statute does not specifically dictate how many individuals must be allowed to observe a recount, but it is clear that the ballot and materials must be available for candidates and their representatives to view and offer any objections to a ballot being counted. Wis. Stat. § 9.01(1)(b)11.~~

The canvass board members and the tabulators are the only persons who may handle and touch the ballots and other election materials. The board of canvassers must, however, allow the candidates and their representatives and/or legal counsel to view and identify the election materials, ~~as well as object to the counting of any ballot. Wis. Stat. § 9.01(1)(b)11. The Commission recommends that the petitioner, candidates, and their authorized representatives and counsel wear a badge or nametag that clearly identifies them as a person who can object to the counting of a ballot.~~ Public health guidance should be considered by the board of canvassers when setting up the recount location and observation areas. ~~Social distancing, the use of facecoverings and hand hygiene should all be clearly communicated to individuals that will be attending the recount in person to ensure the safety of everyone involved in recount. (See Public Health Guidance starting on Page 16 of the Appendix to this manual).~~ Any challenges to the procedure established by the board of canvassers regarding observation should be decided by the board and documented in the minutes. The optional use of a live video feed to provide greater transparency and minimize the number of individuals observing in person should also be considered.

~~The board of canvassers shall exercise reasonable control over the conduct of the recount to assure that the canvassers and tabulators do not experience interference from any person observing the recount. All persons who are not under the supervision of the board of canvassers are considered observers and are subject to the observer guidelines established by the Wisconsin Elections Commission in this manual and the board of canvassers. To clearly identify candidate representatives, all observers shall wear badges or nametags identifying themselves and their role (candidate, media, etc.). This procedure allows individuals assisting the board of canvassers to quickly identify candidate representatives who are provided the ability to view and identify ballots and election materials for purposes of raising an objection to the counting of a ballot with the board of canvassers.~~

The board of canvassers may establish marked observer areas³ and ask that observers remain within those areas unless otherwise permitted by the board of canvassers. If there is not sufficient

room for all observers to view the election materials, preference shall be given to candidates or

³ Unlike observation areas in the polling place, recount observations areas are not required to be placed at any specific distance as long as the candidates and their representatives can view and identify the election materials and the observers are not disruptive to the recount process.

their representatives. The use of video or still cameras inside the recount room is permitted unless it is disruptive or interferes with the recount. The board of canvassers may enforce reasonable restrictions on items brought into the recount room, such as marking devices, food, or drink.

If any observer engages in disruptive behavior that in the opinion of the board of canvassers threatens the orderly conduct of the recount, the board of canvassers shall issue a warning and if the observer does not cease the offending conduct, order the observer's removal.

Recount Preparations

Unless a court orders otherwise, the board of canvassers may decide to either hand-count or use voting equipment to tabulate the ballots. The board of canvassers may also choose to hand-count certain wards, while using voting equipment to tabulate other wards. [Wis. Stats. § 5.90\(1\) & \(2\)](#).

If voting equipment is used, it should be programmed to read and tally only the results for the contest to be recounted. ~~Filing officers should be prepared for a board of canvassers to select either machine counting or hand counting of votes. Prior to the recount, the filing officer should consult individually with board of canvass members to inquire how each prefers the ballots be tabulated. Based on that informal polling, the filing officer can prepare for the recount.~~ The formal decision on the tabulation method to be used should be made publicly when the recount begins so as to provide an opportunity for candidates or their representatives to object.

The filing officer administering the recount should ensure that all the supplies and materials needed for the recount have been acquired prior to the start of the recount. The filing officer should also acquire the necessary original election materials for each reporting unit to be recounted. A sample checklist of materials and supplies is available in the Appendix.

If the necessary materials are not on hand when the recount is scheduled to begin, the Wisconsin Elections Commission recommends that the board of canvassers convene by the deadline set by statute, document what materials are missing, what steps have been taken to procure them for the record, and adjourn until the materials are available.⁴ In the event that the board of canvassers has the required materials for some, but not all the wards to be recounted at the time they are scheduled to begin the recount, the board of canvassers may begin the recount with those wards for which it has the required materials while the missing materials are being obtained.

The Wisconsin Elections Commission recommends that the board of canvassers note in the minutes if proper notice of the recount was given to all candidates. Also, the board of canvassers should note if the recount was properly noticed as a public meeting under [Wis. Stat. § 19.84](#).

The filing officer may choose to conduct an administrative review of the recount materials prior to the recount commencing to identify possible errors or anomalies (e.g., reconciliation of poll books). If any such review was conducted by the filing officer prior to the recount, the filing officer shall publicly present a full report to the board of canvassers of any errors or anomalies identified as well as any corrective action taken. The board of canvassers may choose to adopt or reverse any decision made by the filing officer during the administrative pre-recount review.

What Does the Board of Canvassers Do?

The duty of the board of canvassers is to recount the votes cast for the office in question and to correct the errors, if any, that were made at the original determination of the election results. [Wis. Stat. § 9.01\(1\)\(b\)11](#).

|
If necessary, the board of canvassers may also issue subpoenas to compel witnesses or documents
for

|
⁴ The Board of Canvassers may not adjourn for more than one day at a time. [Wis. Stat. § 9.01\(1\)\(ar\)3.](#)

the recount.

The board of canvassers is also required to ~~make a~~keep complete ~~written record~~minutes of the ~~recount~~all proceedings before the board of canvassers, including a record of any objection, offer of evidence, exhibit, and finding of fact. [Wis. Stat. § 9.01\(5\)\(a\)](#). While a court reporter is not required, an audio recorder is recommended to ensure detailed minutes are kept. A sample format for the recount minutes can be found in the Appendix.

Each party to a recount must be given an opportunity to object and provide offers of evidence on:

- all objections to the recount itself,
- the composition of the board of canvassers,
- the procedures followed,
- any ballot cast at the election, and
- any other issues presented to the board of canvassers during the recount.

~~[Wis. Stat. § 9.01\(5\)\(a\)](#)~~

~~Any objections or offers of evidence, the canvass board's decisions, and any findings of fact regarding any irregularities discovered during the recount, must be recorded in the written minutes of the recount proceedings. While a court reporter is not required, an audio recorder is recommended to ensure detailed minutes are kept. A sample format for the recount minutes can be found in the Appendix.~~

How Does the Board Conduct the Recount?

The board of canvassers conducts the recount by following the procedures in Wis. Stats. §§ [5.90](#); [7.50](#); [7.51](#); & [9.01\(1\)\(b\)](#). Please see the Appendix for checklists specific to the use of each type of tabulation method as well as the Commission staff memorandum on the construction of Wisconsin's election statutes and the discretion a board of canvassers may exercise when making decisions during the recount. These procedures are conducted separately for each municipality and reporting unit within the municipality. The board of canvassers shall announce each reporting unit before beginning the recount process for that reporting unit. Again, a reminder that the board of canvassers must keep complete minutes of each step completed, any objections made, any evidence introduced, any findings of fact made, and any decisions of the board of canvassers, including the reasoning behind the decision.

1. Reconcile Poll Lists – [Wis. Stat. § 9.01\(1\)\(b\)1.](#)

The board reconciles the two poll lists and any supplemental lists to confirm the lists record the same voters, the same total number of electors who voted in the ward or municipality, and that the same supplemental information is noted. The canvassers determine from the poll lists the total number of voters, the number of absentee votes recorded, and identify any irregularities appearing on these lists. The canvassers note in the minutes the total number of persons who voted, how many absentee votes were recorded, and any irregularities found on the poll lists.

2. Review Absentee Ballots and Materials – [Wis. Stat. § 9.01\(1\)\(b\)2.](#)

□ Determine Number of Absentee Voters

The Wisconsin Elections Commission recommends that the board of canvassers determines the

number of absentee voters by reviewing the poll lists, the absentee ballot certificate envelopes, the Inspectors' Statement (EL-104), and the absentee ballot log (EL-124).

~~Examine Written Absentee Applications~~

The board of canvassers then reviews the written applications for absentee ballots and the list of absentee voters maintained by the municipal clerk. There should be a written application for each absentee ballot envelope except those issued in person in the clerk's office. In the case of indefinitely confined, a designation on a list prepared by the municipal clerk is sufficient if it indicates that an absentee ballot was delivered to and returned by an absentee voter.

Do not reject an absentee ballot if there is no separate written application.⁵ Because of the variety of reasons that the board of canvassers may not be able to locate a specific written application, and the likelihood that a voter may be improperly disenfranchised, the board of canvassers should not reject an absentee ballot due to the lack of a written application. The board of canvassers records in the minutes the number of written absentee ballot applications on file as well as an explanation of any discrepancy, but any request to reject a ballot on this basis should be determined by a reviewing court rather than the board of canvassers.

❑ *Review Rejected Absentee Ballots*

The board of canvassers examines the rejected absentee ballot certificate envelopes contained in the brown carrier envelope (EL-102). Rejected absentee ballot certificate envelopes are identified by the election inspectors on eElection nNight and marked "rejected." The reason for the rejection should be noted on the Inspectors' Statement (EL-104).

For recount purposes, an absentee ballot certificate envelope is defective "only if it is not witnessed or if it is not signed by the voter, or if the certificate accompanying an absentee ballot that the voter received by facsimile transmission or electronic mail is missing." Wis. Stat. § 9.01(1)(b)2. The board of canvassers should make their own determination for each rejected absentee ballot certificate envelope.⁶ Any improperly rejected ballots should be marked and placed into the pool of ballots to be counted. If the number of voters is increased under this procedure the change should be recorded in the minutes. Any errors by election inspectors in rejecting absentee ballots should be documented in the minutes, along with the corrective action taken.

❑ *Examine ~~Defective~~ Absentee Ballot Envelopes*

The board of canvassers examines the used absentee ballot certificate envelopes (EL-122, EL-122M, EL-122SVD, EL-122S) contained in the white carrier envelope (EL-103). If the board finds any defective⁷ absentee ballot certificate envelope not identified on eElection nNight, they it should be marked as defective, assigned a serial number, set aside, and properly preserved. A notation, including a description of the defect, should be made in the minutes.

The number of voters determined at the beginning of the recount is reduced by the total number of absentee ballots set aside under this procedure. This adjusted number is noted in the minutes and used whenever the number of voters is referred to during the recount. Do not remove ballots from the pool yet at this stage. See stage 4, below.

3. Examine Ballot Bag or Container – Wis. Stat. § 9.01(1)(b)3.

The board of canvassers examines the ballot bag or ballot container (~~EL-101~~) to determine that it has not been tampered with, opened, or opened and resealed. The board of canvassers should verify that the tamper-evident seal matches the serial number on the Ballot Container

⁵ See Informal Opinion of Staff Attorney Re: Recount of the Town of Walworth Recall Election (11/18/02); but see also Wis. Stat. § 6.84(2); Walter V. Lee v. David Paulson, 2001 WI App 19.

⁶ See Wis. Stat. § 6.88(3) for procedures and guidance on accepting or rejecting absentee ballot certificate envelopes.

⁷ ~~An absentee ballot is defective only if it is not witnessed, the witness did not provide an address, it is not signed by the voter, or if the certificate envelope or the certification language is missing. Wis. Stat. § 9.01(1)(b)2.~~

Certification (EL-101) and the Inspectors' Statement (EL-104). The Wisconsin Elections Commission recommends the board of canvassers investigate any irregularities or possible tampering with the ballots and note its findings in the minutes.

4. Reconcile Ballot Count – Wis. Stat. § 9.01(1)(b)4.

□ Ballot Count – Wis. Stat. § 9.01(1)(b)4.a.4(a)

The board of canvassers opens the ballot bag or ballot container and removes the contents. The canvassers or tabulators count the number of ballots in the ballot bag, excluding any ballots that were set aside and not counted by the election inspectors on eElection nNight under the provisions of Wis. Stat. § 7.51(2). These “set aside” ballots should have been marked and bundled by the election inspectors on eElection nNight.

The board of canvassers reviews all ballots marked rejected, defective, and objected to, in order to decide whether such ballots were correctly categorized when the ballots were first examined after the election.

□ Separate Probable Absentee Ballots – Wis. Stat. § 9.01(1)(b)4.b.4(b)

The board of canvassers separate all “probable absentee ballots”⁸ from the other ballots. The board of canvassers shall presume that a ballot initialed only by the municipal clerk, executive director of the board of election commissioners, deputy clerk or secretary is an absentee ballot. Wis. Stat. § 9.01(1)(b)4.b. The number of probable absentee ballots should equal the number of properly completed certificate envelopes (as determined by the board of canvassers in step 2 above), the number of absentee ballots recorded on the registration list on eElection Night.night, and the number of written applications. Any discrepancies should be recorded in the minutes.

□ Reconciling the Number of Ballots with the Number of Voters⁹ – Wis. Stat. § 9.01(1)(b)4.b.

If the number of voters is greater than or equal to the number of ballots, record that information, but skip this step. Only engage in the following procedure in the situation whereif the number of ballots exceeds the number of voters should the board of canvassers engage in the following procedure.

If the board of canvassers previously determined that any open absentee ballot certificate envelopes were defective, the board of canvassers must draw~~s~~ at random, without inspection, from the pool of probable absentee ballots; the number of ballots equal to the number of envelopes that have been determined defective. If the board of canvassers finds more defective absentee ballot envelopes than probable absentee ballots, the board of canvassers shall set aside all probable absentee ballots. The probable absentee ballots shall not be counted, but shall be marked as to the reason for their removal, set aside and properly preserved. The board of canvassers notes in the minutes the steps taken under this procedure and the results determined. Wis. Stat. § 9.01(1)(b)4.b.

If the number of ballots still exceeds the number of voters, the board of canvassers or the tabulators shall place all the ballots face up to check for blank ballots. Any blank ballots (ballots which have not been marked for any office) shall be marked as to the reason for their removal, set aside and properly preserved. The board of canvassers should record this action in the minutes. Wis. Stat. § 9.01(1)(b)4.c.

⁸ The board of canvassers shall presume that a ballot initialed only by the municipal clerk, executive director of the board of election commissioners, deputy clerk or secretary is an absentee ballot. Wis. Stat. § 9.01(1)(b)4.b.

⁹ See Appendix pgs. 12-15 for discussion of the Board of Canvassers retaining some discretion to ensure that statutes are applied to “give effect to the will of the electors.”

If the number of ballots still exceeds the number of voters after removing all blank ballots, the board of canvassers shall place all ballots face down to check for initials. Any ballots not properly initialed by two inspectors or any probable absentee ballots not properly initialed by the municipal clerk, ~~or~~ deputy clerk, or other statutorily authorized official are set aside. The board of canvassers must, without inspection, randomly draw from the improperly initialed ballots as many ballots as are necessary to reduce the number of ballots to equal the number of voters determined to have voted on election day, less any defective absentee ballot certificate envelopes. Any ballots removed for lack of proper initials shall not be counted, but shall be marked as to the reason for their removal, set aside and properly preserved. The board of canvassers should record this action in the minutes. Wis. Stat. § 9.01(1)(b)4.d.

If the number of ballots still exceeds the number of voters, the board of canvassers places the remaining ballots in the ballot bag and randomly draws, without inspection, the number of ballots equal to the number of excess ballots.¹⁰ These ballots shall not be counted, but shall be marked as to the reason for their removal, set aside and properly preserved. The actions taken under this procedure are recorded in the minutes. Wis. Stat. § 9.01(1)(b)4.e.

When the number of ballots equals the number of voters or if the number of voters exceeds the total number of ballots, the board of canvassers returns the ballots to the ballot bag or container and thoroughly mixes the ballots. Wis. Stat. § 9.01(1)(b)5.

5. Review Provisional Ballots

The board of canvassers shall examine the Inspectors' Certificate of Provisional Ballots (EL-108), Provisional Ballot Reporting Form (EL-123r), Provisional Ballot Certificate envelopes (EL-123), and Statement of the Municipal Board of Canvassers (EL-106AP) to determine if provisional ballots were correctly processed. The board of canvassers should determine if all ballots for voters providing the required information¹¹ have been included in the original result. The board of canvassers shall record any discrepancies in the minutes. Wis. Stat. § 6.97.

6. Count the Votes

~~When counting paper or optical scan ballots, questions often arise concerning the intent of the elector. Election officials have a duty to attempt to determine voter intent and give effect to that intent if it can be determined. Election officials are expected to use common sense to determine the will of an elector based on the marks made by the elector on the ballot. The decisions of the election inspectors may be reviewed by the board of canvassers conducting the recount. Wis. Stats. §§ 7.50, 7.51, 7.60. Even if an elector has not fully complied with the provisions of the election law, votes should be counted as intended by the elector to the extent that the elector's intent can be determined. Wis. Stat. §§ 5.01(1), 7.50(2). The Wisconsin Elections Commission has a manual titled "Counting Votes," which is designed to assist election officials in determining voter intent. A copy of the "Counting Votes" manuals ares available on the agency website and should be reviewed by the board of canvassers prior to the recount. The exact steps for tabulating the votes will vary depending on the method or combination of~~

¹⁰ See Appendix pgs. 12-15 for discussion of the Board of Canvassers retaining some discretion in potential drawdown scenarios to ensure that statutes are applied to "give effect to the will of the electors." One factor considered, is whether an error can be determined and whether the error was committed by the voter or the election official.

¹¹ See Wis. Stat. § 6.97 and Wis. Admin. Code EL § 3.04.

methods of tabulation selected by the board of canvassers:

1) Hand Count

The Wisconsin Elections Commission recommends that hand counts be conducted using teams of at least two tabulators. These tabulators will double-check each other's work throughout the process to ensure that an accurate count is maintained.

Sort Ballots by Candidate

Each tabulation team should begin by sorting the ballots into stacks: One stack for each candidate (ballots that clearly indicate a vote for a ballot candidate or a valid write-in candidate) and one stack for ballots where no vote may be counted (defective ballots, votes for invalid write-in candidates, etc.). Candidate representatives should be given the opportunity to review each ballot as it is sorted, and may request that the tabulators set aside questionable ballots for closer examination and determination of voter intent by the board of canvassers.¹² The board of canvassers may consult with its legal counsel or Wisconsin Elections Commission staff regarding any questionable ballots. The Wisconsin Elections Commission recommends that any such consultation should be recorded in the minutes.

Create Stacks of a Fixed Number

Set aside the stack of ballots for which no vote can be counted. For each stack of ballots marked for a candidate, each tabulator should create sub-stacks of a fixed number (e.g., 25 ballots) with a remainder stack for any number left over from creating the full-size stacks. Each stack should be double-checked by a second tabulator to ensure the stack contains exactly the number expected.

Tally Stacks to Determine the Total Vote

The board of canvassers then carefully counts the number of stacks for each candidate. The counts should be recorded separately by two individuals on two clearly-labeled tally sheets (EL-105). After all of the counts have been recorded, the two tally sheets should be compared against each other to ensure an accurate count is determined. The recount vote totals are recorded in the minutes.

A reconciliation of the ballots for which no vote could be counted should be recorded in the minutes. This documentation should list the reasons the ballots could not be counted, and the number of ballots not counted for each reason.

2) Optical Scan

If an optical scan tabulator is used, the Wisconsin Elections Commission recommends that where possible the tabulator should be programmed to only tally the results for the contest to be recounted. If the tabulator is not reprogrammed to tally only the contest to be recounted, the Wisconsin Elections Commission recommends that the counts for other contests be separated, set aside and preserved. The recounted results for the other contests should not be included in the board of canvassers report of recount results but may need to be preserved for public records or other purposes.

Note: The original memory device for the voting equipment from eElection eDay cannot be cleared

¹² Please refer to the [Counting Votes Manual](#) on the WEC website for detailed rules and examples of when to count or

not count a mark as a vote.

and reprogrammed for use at the recount, so an alternative memory device must be acquired for use at the recount. [Wis. Stats. §§ 7.23\(1\)\(g\) & \(2\)](#).

❑ *Examine the optical scan tabulator*

The board of canvassers shall make a record of the number of the tamper evident seal, protective counter, or other device, if any, before opening any of the voting equipment. The board of canvassers examines the electronic voting equipment to determine that any other tamper evident seals are intact and match the log maintained by the election inspectors and the municipal clerk. The board of canvassers notes in the minutes any irregularities or possible tampering with the device. [Wis. Stats. §§ 5.90\(1\) & 9.01\(1\)\(b\)6](#).

❑ *Test the optical scan tabulator*

The board of canvassers tests the automatic tabulating equipment to ensure it is programmed correctly for the recount using a pre-audited group of ballots marked to record a predetermined number of valid votes for each candidate or contest choice (test deck). The test deck should include at least one ballot with more selections than permitted (overvote) and for recounts in a partisan primary, at least one ballot with votes in more than one party primary (crossover) in order to test the ability of the tabulator to reject such ballots. The results of the test deck tabulation should be compared to the pre-audited results to ensure accuracy and a record of the test results should be noted in the minutes. [Wis. Stats. §§ 5.84\(1\) & 5.90\(1\)](#). The board of canvassers may choose to test the tabulator for all reporting units at once and skip this step in subsequent reporting units if using the same memory device for all reporting units.

❑ *Compare Duplicate Ballots with Original Ballots*

On eElection dDay, some ballots cannot be processed by the optical scan tabulator due to overvotes or other defects. When this happens, election officials create a duplicate ballot to honor as much of the elector's intent as possible. The duplicate ballot is then tallied by the equipment and the original is set aside and not counted. Both the duplicate and original ballots should be marked as such and contain identical serial numbers so they can be matched up. [See Wis. Stat. § 5.85](#).

The board of canvassers compares any duplicate ballots with their respective originals to determine the correctness of the duplicates. If any duplicate ballots were remade incorrectly, the board of canvassers should set aside the incorrectly remade duplicate ballot, mark it with the reason for its removal, create a new duplicate ballot, and mark it as such. [Wis. Stat. § 5.90\(1\)](#).

❑ *Insert Ballots into the Optical Scan Tabulator*

Each ballot shall be reviewed by the board of canvassers and may be inspected by the candidates or their representatives before being inserted into the tabulator. If it appears the ballot may not be recorded correctly by the tabulator, or if the ballot is objected to, the ballot is set aside to be examined by the board of canvassers for voter intent and counted separately by hand.

❑ *Generate Results*

The board of canvassers places the optical scan tabulator into post-election mode and generates

a results tape for the reporting unit. The board of canvassers adds in any votes counted

separately by hand using new tally sheets and records the total results as part of the revised canvass statement. See Step #89.

If the equipment needs to be used for another reporting unit, the board of canvassers shall ensure that all ballots have been removed from the tabulator and re-secured in ballot bags or containers before proceeding to reset the equipment for use with the next reporting unit.

3) Direct Record Electronic (DRE)

In many polling places across the state direct record electronic (DRE) voting equipment is used in conjunction with paper ballots or optical scan ballots to enable individuals with disabilities to vote privately and independently. As a result, the paper ballots and optical scan ballots should be counted first by following the steps described above, if applicable.

Separate the Voter Verified Paper Audit Trail into Individual Ballots

DRE equipment records votes two separate ways: electronically and on a paper tape that the voter can view to verify the equipment is recording their votes correctly before casting their ballot. In a recount, the board of canvassers is required to use the paper record. [Wis. Stat. § 5.90\(1\)](#). The paper tape consists of a pre-election readiness report, a zero-report showing that no votes are currently in the memory of the machine, individual ballot records, and a closing results report.

To facilitate counting of the individual ballot records and to preserve the confidentiality of an individual's vote, the board of canvassers may cut the paper record to separate the individual voter records and then further cut the paper tape into the individual ballots, which would then be randomized. When cutting the paper tape be careful that only the section of the tape covering eElection dDay is used. When separating the tape into individual ballots, watch for "voided" ballots, which appear the same as other ballot entries except they will be followed by a "void" entry on the tape. The "void" entry may appear far below the record of votes cast on the tape. These "voided" ballots should not be counted as they were not cast.

As an alternative to cutting the paper tape, the boards of canvassers may retain the paper record in its original format and simply scroll through the tape to count each individual ballot. However, if the tape is not cut, the board of canvassers must take the appropriate precautions to ensure the confidentiality of votes, as the entries on the paper record will be in the order that the voters used the equipment.

If due to a paper jam or misprint some individual ballot records are not available, the board of canvassers may consult with the voting equipment vendor to determine if the missing records can be recreated. The board of canvassers may be able to obtain records from the vendor, such as cast ballot records, that will allow them to tally votes from the missing ballot records. Any such tallying should be documented in the recount minutes.

Tally Individual Ballots to Determine the Total Vote

The board of canvassers carefully counts each individual ballot record as recorded on the tape. The counts should be recorded by two individuals on clearly labeled tally sheets (EL-105). After all of the counts have been recorded, the two tally sheets should be compared against each other to ensure an accurate count is determined. The recount vote totals should be compared against the original results as generated by the DRE and any discrepancies shall be recorded in the

minutes.

7. Secure Original Materials

After concluding the recount for a particular reporting unit, the board of canvassers shall gather and account for all original election materials. All ballots shall be placed into a ballot bag or container and resealed. The board of canvassers shall document in the minutes the serial number of any new security seals or tags used.

All election materials should be accounted for before proceeding to the next reporting unit to prevent the accidental mixing of materials from different reporting units.

8. Prepare New Canvass Statement

If any corrections were made to the results, the board of canvassers shall prepare a statement of revised election results using the canvass reporting form (EL-106). [Wis. Stat. § 9.01\(1\)\(b\)9.](#)

After the Recount

What does the board of canvassers do after completing the recount?

- If the recount is for a municipal election, the board of canvassers promptly forwards the results and minutes to the municipal clerk.
- If the recount is for a school board election, the board of canvassers promptly forwards the results and minutes to the school board clerk.
- If the recount is for a county election, the county board of canvassers promptly forwards the results and minutes to the county clerk.
- If the recount is for a state or federal election, the results and minutes of the recount are to be forwarded immediately to the Wisconsin Elections Commission and should be received no later than 13 days after the recount is ordered. [Wis. Stat. § 9.01\(1\)\(ar\)3.](#)

A copy of the minutes of any recount should be sent to the Wisconsin Elections Commission. For federal, state, and county elections, the board of canvassers should also send copies of the minutes to the chief officers of the state or county committee for any registered political party who had candidates for that office. [Wis. Stat. § 9.01\(5\)\(bm\).](#)

No certificate of election may be issued by the filing officer until the deadline for filing all appeals has passed and the election results are final.

How Does a Candidate or Petitioner Challenge the Recount Results?

The candidate or petitioner has a right to appeal the recount determination in circuit court. The appeal must be filed with the circuit court within five (5) business days of the completion of the recount in all counties concerned. Notice must also be served in person or by certified mail on all other candidates and persons who filed a written notice of appearance before the board of canvassers. If the recount affects a state or federal office or referendum, notice of the appeal must be served on the Wisconsin Elections Commission. See Wis. Stats. §§ [9.01\(6\)](#), [\(7\)](#), [\(8\)](#), & [\(9\)](#).

The recount process and the subsequent judicial appeals is the exclusive remedy for testing the right to hold an elective office as the result of an alleged irregularity, defect, or mistake committed

during the voting or canvassing process. [Wis. Stat. § 9.01\(11\)](#).

Conclusion

This information is prepared pursuant to [Wis. Stat. § 9.01\(10\)](#). Petitioners, candidates, and filing officers should seek legal counsel when they are involved in a recount. If you have any questions, concerns, suggestions or recommendations about the recount process, please contact the:

Wisconsin Elections Commission

P.O. Box 7984

Madison, WI 53707-7984

Phone: 608-261-2028 Fax: 608-267-0500

Email: elections@wi.gov

Website:

<https://elections.wi.gov/>

Appendix

Sample Forms	1-6
Recount Petition	1
Recount Petition for Referendum	2
Order for Recount	3
Public Notice of Recount	4
Acceptance of Service	5
Recount Minutes	6
Recount Fee Scenarios	7
Recount Checklists	8-11
Supplies and Materials	8
Paper Ballot	9
Optical Scan	10
Direct Recording Electronic (DRE)/Touch Screen Voting	11
Commission Staff Memorandum: Construction of Wisconsin Election Statutes	12-15
Directory vs. Mandatory Application of Statutes	12-13
Election Official Error vs. Voter Error	14
Board of Canvassers Discretion	14-15
Public Health Guidance	16

SAMPLE ORDER FOR RECOUNT

STATE OF WISCONSIN – (County)

In the matter of:)	
)	ORDER FOR RECOUNT
A Recount of the (Election))	
for (Title of Office))	
for the (District), held)	
on (Date))	

On (Date Recount Petition was filed), a recount petition was filed by (Petitioner’s Name), a candidate for the office of (Office Title) for the (District), at the (Election) held on (Date).

The petition requests a recount of (list specific wards or municipalities) for the office of (Office Title).

The filing officer has reviewed the petition. The petition is sufficient. Any applicable fee has been received and accepted.

Pursuant to Wis. Stat. § 9.01:

IT IS ORDERED THAT:

1. A recount be conducted of all the votes cast for the office of (Office Title) for the (District) at the (Election) held on (Election Date) in (list of specific wards or municipalities).
2. The boards of canvassers convene at (Time) on (Date) at (Location), to begin the recount.
3. The recount be completed by the board of canvassers immediately.
4. The clerk ~~transmits~~ transmits a certified canvass report of the result of the recount and a copy of the minutes of the recount proceedings to the Wisconsin Elections Commission immediately after the completion of the recount.

Dated: _____

(Clerk’s Name)
(Clerk’s Title)

SAMPLE PUBLIC NOTICE

Notice of Recount for the Office of (Office Title) for the (District) in the (Election)

TO: All Candidates On The Ballot For The Office of (Office Title) for the (District) and
Other Interested Persons

FROM: (Clerk)

SUBJECT: Recount of the Votes Cast for the Office of (Office Title) for the (District) in the
(Election)

DATE: (Date)

A recount of the votes cast at the (Election Date) (Election) for the office of (Office Title) for the
(District) will begin at the time and location set forth below:

(Municipality) – 9:00 a.m. on (Date), at (Location).

A copy of the recount petition is attached. This notice is given pursuant to Wis. Stat. § 9.01(2).

You have the right to be present and to be represented by counsel to observe and challenge the votes
cast and the board of canvassers' decisions at the election.

Attachment

Sample Acceptance of Service

MEMORANDUM

DATE: (Date)
TO: (Clerk)
FROM: Candidate for (Office)
SUBJECT: Service of Recount Petition

Pursuant to Wis. Stat. § 9.01(2) on this day, I have personally received delivery of copies of the notice of recount, recount petition, and order for recount for the office of (office) at the (election date) (election name). I agree to waive service and accept delivery.

(Signature of Candidate)

(Print Name)

Sample Recount Minutes

Date of Recount:

County:

Office to be Recounted: *(Include District Number)*

Original Result: *(Candidates' Names and Votes for Each Candidate. If there was a tie, explain how it was broken.)*

Canvass Board Members: *(If substitute, give reason for substitution.)*

Other Personnel: *(Tabulators, Corporation Counsel, Clerical Support)*

Others Present:

Notification: *(Were candidates notified and was public notice given?)*

Electronic Voting Equipment Test Results:

For Each Reporting Unit:

Name of Municipality:
Reporting Unit:
Original Vote Totals for Reporting Unit:
Number of Voters from Registration List:
Number of Absentee Ballot Applications <u>(If Applicable)</u> :
Number of Absentee Ballots:
Notes: (Include a description of any discrepancies, irregularities, errors, problems, objections raised by observers. Record any decision of the board of canvassers. Identify any exhibits by description and number.)
Recount Vote Totals for Reporting Unit:

Recount Results:

An electronic or hard copy of the minutes from any recount must be sent to:

Wisconsin Elections Commission
P.O. Box 7984
Madison, WI 53707-7984
elections@wi.gov

Recount Fee Scenarios

Scenario #1: Village President

Candidate	Votes
A	4,500
B	4,410

In this scenario, candidate A would currently be elected to office. If a recount was requested, the fee is determined by first calculating the total votes cast for the office ($4,500+4,410 = 8,910$). The difference between the leading candidate and the petitioner (90 votes) is divided by the total votes cast (8,910) and then multiplied by 100 to get the percentage difference (1.01%).

Candidate B would be required to pay a filing fee as the percentage difference is greater than .25%. However, the vote difference between the leading candidate and the petitioner is more than 1% so the contest is not eligible for a recount.

Scenario #2: School Board (vote for up to 3)

Candidates	Votes
A	3,500
B	3,000
C	2,920
D	2,910
E	2,900
F	2,800

In this scenario, candidates A-C would currently be elected to office. If a recount was requested, the fee is determined by adding up all the votes cast for the office (18,030 total) and dividing it by the number of offices to be filled (3 in this scenario) to get a total of 6,010. The difference between the leading candidate (C, as he or she is the candidate with the lowest number of votes still being elected to office) and the petitioner is divided by 6,010 and multiplied by 100 to get the percentage difference.

So in this case:

- If Candidate D requested a recount, there would be no fee required as the difference is .17%, which is not greater than .25%
- If Candidate E requested a recount, a filing fee would be required as the difference is .33%, which is greater than .25%
- If Candidate F requested a recount, the difference would be 2% so the contest is not eligible for recount.

General Checklist of Supplies and Materials Needed for the Recount:

- Paper and Pens (To record the minutes of the recount!)
- Tape Recorder (Optional)
- Speaker Phone (for consultation with WEC staff or counsel)
- Test Deck for Electronic Voting Equipment Test
- New *Tally Sheets* (EL-105)
- New *Canvass Reports* (EL-106)
- Copies of any informational memoranda relating to the election and the recount prepared by the Wisconsin Elections Commission staff and sent to county and municipal clerks.
- Recount checklists and the *Elections Recount Procedures Manual* available from the Wisconsin Elections Commission

Election Materials from Each Reporting Unit:

- All ballots to be recounted, contained in the original ballot bag or ballot container (EL-101), including any provisional ballots processed after Election Day;
- All paper audit trails from direct record electronic (DRE) voting devices;
- All logs of security seals for ballot boxes or electronic voting equipment;
- Both copies of the original poll lists, including any supplemental voter lists;
- ~~All absentee ballot applications (See page 7);~~
- Any rejected absentee ballots, contained in the original brown carrier envelope (EL-102);
- Any used absentee ballot certificate envelopes, contained in the white carrier envelope (EL-103);
- The original Inspectors' Statement (EL-104);
- The MBOC Record of Activity (EL-104P) created during the processing of provisional ballots, if any;
- The original tally sheets (EL-105) and any results tapes generated by electronic voting and tabulating devices;
- The original canvass report of the election results (EL-106);
- The amended canvass report of the election results created after any provisional ballots were tabulated (EL-106P);
- Any provisional ballot documentation (EL-108 & EL-123);
- The absentee ballot log (EL-124); and
- The test deck for any electronic voting equipment.

Recount Checklist

Hand Counted Paper Ballots

Municipality _____ Date _____
Reporting unit _____ Contest _____

This checklist is designed to facilitate uniform practices and is to be completed simultaneously with the recount process for each reporting unit in the recount.

- Compare and reconcile poll lists.
- Absentee ballot review: number, ~~applications~~, rejected, defective envelopes, all certificates.
- Verify tamper evident serial number on ballot container matches seal number written on Inspectors' Statement (EL-104) and Ballot Container Certification (EL-101).
- Ballot count.
 - Review ballots marked "rejected," "defective," or "objected to."
 - Separate absentee ballots and drawdown (*May be skipped if the number of absentee ballots equals the number of proper envelopes*).
 - Reconcile the number of ballots with the number of voters.
 - Treatment of excess ballots (*May be skipped if the number of voters equals or exceeds the number of ballots*.)
- Review provisional ballots.
- Hand count paper ballots.
 - Sort ballots by candidate.
 - Create stacks of a fixed number.
 - Tally the stacks using duplicate original tally sheets (EL-105).
- Add in any votes counted separately by other methods.
- Secure the original election materials.
- Prepare canvass statement.
- Prepare minutes for each reporting unit and attach completed checklist to minutes.

Recount Checklist

Optical Scan Voting Equipment

Municipality _____ Date _____
Reporting unit _____ Contest _____

This checklist is designed to facilitate uniform practices and is to be completed simultaneously with the recount process for each reporting unit in the recount.

- Compare and reconcile poll lists.
- Absentee ballot review: number, ~~applications~~, rejected, defective envelopes, all certificates.
- Verify tamper evident serial number on ballot container matches seal number written on Inspectors' Statement (EL-104) and Ballot Container Certification (EL-101).
- Ballot count.
 - Review ballots marked "rejected," "defective," or "objected to."
 - Separate absentee ballots and drawdown (*May be skipped if the number of absentee ballots equals the number of proper envelopes*).
 - Reconcile the number of ballots with the number of voters.
 - Treatment of excess ballots (*May be skipped if the number of voters equals or exceeds the number of ballots*.)
- Review provisional ballots.
- Verify voting equipment tamper evident serial number seal number written on Inspectors' Statement (EL-104) contains Chief Inspector's initials for pre-election and post-election verification.
- Test the automatic tabulator (*The Board of Canvassers may choose to test the tabulator for all reporting units at once and skip this step in subsequent reporting units if using the same memory device for all reporting units.*)
- ~~Compare duplicate ballots with original ballots.~~
- Feed ballots into the optical scan tabulator.
- Generate results.
- Add in any votes counted separately by other methods.
- Secure the original election materials.
- Prepare canvass statement.
- Prepare minutes for each reporting unit and attach checklist to minutes.

Recount Checklist

Direct Recording Electronic (DRE)/Touch Screen Voting Equipment

Municipality _____ Date _____
Reporting unit _____ Contest _____

This checklist is designed to facilitate uniform practices and is to be completed simultaneously with the recount process for each reporting unit in the recount.

- Compare and reconcile poll lists.
- Absentee ballot review: number, ~~applications~~, rejected, defective envelopes, all certificates.
- Verify tamper evident serial number on ballot container matches seal number written on Inspectors' Statement (EL-104) and Ballot Container Certification (EL-101).
- Ballot count.
 - Review ballots marked "rejected," "defective," or "objected to."
 - Separate absentee ballots and drawdown (*May be skipped if the number of absentee ballots equals the number of proper envelopes*).
 - Reconcile the number of ballots with the number of voters.
 - Treatment of excess ballots (*May be skipped if the number of voters equals or exceeds the number of ballots.*)
- Review provisional ballots.
- Verify voting equipment tamper evident serial number seal number written on Inspectors' Statement (EL-104) contains Chief Inspector's initials for pre-election and post-election verification.
- Separate voter-verified paper audit trail into individual ballots (may be skipped if canvass board members take appropriate precautions to ensure the confidentiality of individual electors' votes)
- Hand count permanent paper record of votes generated by DRE and record on duplicate tally sheets (EL-105).
- Add in any votes counted by other methods.
- Secure the original election materials.
- Prepare canvass statement.
- Prepare minutes for each reporting unit and attach checklist to minutes.

WISCONSIN ELECTIONS COMMISSION

212 EAST WASHINGTON AVENUE, 3RD FLOOR
POST OFFICE BOX 7984
MADISON, WI 53707-7984
(608) 261-2028
ELECTIONS@WL.GOV
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INTERIM ADMINISTRATOR MEAGAN WOLFE

COMMISSIONERS

BEVERLY R. GILL
JULIE M. GLANCEY
ANN S. JACOBS
JODI JENSEN
DEAN KNUDSON
MARK L. THOMSEN, CHAIR

MEMORANDUM

DATE: _____ For the May 24, 2018 Commission Meeting

TO: _____ Members, Wisconsin Elections Commission

FROM: _____ Meagan Wolfe
Interim Administrator

Prepared and Presented by:
Michael Haas, Staff Counsel
Nathan Judnie, Senior Elections Specialist

SUBJECT: _____ Commission Recount Manual

The information contained in the Commission's Recount Manual is prepared pursuant to Wis. Stat. § 9.10(10) to ensure that uniform procedures for boards of canvassers conducting recounts are followed when possible. The purpose of the Recount Manual, and other manuals and guidance documents prepared by the Commission staff, is to help explain statutory requirements, offer guidance on ambiguous provisions of the statutes, if necessary, and when needed, expand upon statutory requirements with recommended best practices and procedures.

Unlike laws governing other topic areas, the construction and application of election laws is somewhat unique.

5.01 Scope. (1) CONSTRUCTION OF CHS. 5 TO 12. Except as otherwise provided, chs. 5 to 12 shall be construed to give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to fully comply with some of their provisions.

Wis. Stat. § 5.01(1). The Legislature's decision to construe Wisconsin's election statutes in this manner affects how the courts have interpreted these statutes which in turn influences advice provided by Commission staff when fact specific scenarios are presented, usually on a case-by-case basis. The construction of statutes to "give effect to the will of the electors" has resulted in three general concepts which provide the framework for advice rendered by Commission staff: 1) directory vs. mandatory application of election statutes, 2) election official error vs. voter error, and 3) board of canvassers decision-making discretion.

Directory vs. Mandatory Application of Statutes to "give effect to the will of the electors"

Based on Wis. Stat. § 5.01(1) (and its identical predecessor statute), Wisconsin courts view the election statutes with an eye towards a voter's ballot being counted as cast when possible, versus a ballot being set aside and not counted if the will of the elector can be determined, even if a statute directs—but does not mandate—a ballot to be set aside in certain circumstances. Especially during a recount, this construct can be important in reviewing ballots that may or may not have been issued, cast or counted in compliance with every specific step of the election statutes. The consistent application of this concept is illustrated by the following statements of the Wisconsin Supreme Court:

The difference between mandatory and directory provisions of election statutes lies in the consequences of nonobservance: An act done in violation of a mandatory provision is void, whereas

an act done in violation of a directory provision, while improper, may nevertheless be valid. Deviations from directory provisions of election statutes are usually termed ‘irregularities,’ and, as has been showing in the preceding subdivision, such irregularities do not vitiate an election. Statutes giving directions as to the mode and manner of conducting elections will be construed by the courts as directory, unless a noncompliance with their terms is expressly declared to be fatal, or will change or render doubtful the result, as where the statute merely provides that certain things shall be done in a given manner and time without declaring that conformity to such provisions is essential to the validity of the election. *Sommerfeld v. Board of Canvassers*, 269 Wis. 299, 69 N.W.2d 235 (1955), *Olson v. Lindberg*, 2 Wis.2d 229, 85 N.W.2d 775 (1957).

In keeping with sec. 5.011, Stats. (which is now sec. 5.01(1)), this court has quite consistently construed the provisions of election statutes as directory rather than mandatory so as to preserve the will of the elector. *Grandinjan v. Boho*, 29 Wis.2d 674, 139 N.W.2d 557 (1966).

...We have held that the word ‘shall’ can be construed to mean ‘may.’ *George Williams College v. Williams Bay*, 242 Wis. 311, 7 N.W.2d 891 (1943).

In passing upon statutes regulating absentee voting, the court should look to the whole and every part of the election laws, the intent of the entire plan, the reasons and spirit for their adoption, and try and give effect to every portion thereof. *Sommerfeld*, 269 Wis.2d at 238.

The Court has consistently sought to preserve the will of the electors by construing election provisions as directory if there has been substantial compliance with their terms. *Grandinjan*, 29 Wis.2d at 682.

Throughout the statutes with reference to elections the intent of the legislature is apparent. It is to encourage and assist qualified electors to cast their ballots for candidates of their choice. To prevent fraud the legislature in some instance has specifically stated that there must be strict compliance with a statute or a ballot cannot be counted. In so far as we have been called upon to construe that statutes we have held that where the legislature has provided in explicit language that absentee ballots shall not be counted unless certain provisions of the statute are complied with, compliance with those provisions is mandatory. Where it has not done so expressly and in clear language we have held that provisions regulating absentee voting are directory, and that strict compliance therewith is not required. *Petition of Anderson*, 12 Wis.2d 530, 533 (1961).

See also additional cases in which the Court has determined that election statutes shall be interpreted as directory and not mandatory as to give effect to the will of the electors: *State ex rel. Tank v. Anderson*, 191 Wis. 538, 211 N.W. 938 (1927), *State ex rel. Baneroft v. Stumpf*, 21 Wis. 586 (1867), *Ollman v. Kowalewski*, 238 Wis. 574, 300 N.W. 183 (1941), *State ex rel. Graves v. Wiegand*, 212 Wis. 286, 249 N.W. 537 (1933), *State ex rel. Oaks v. Brown*, 211 Wis. 571, 249 N.W. 50 (1933), *Lanser v. Koeonis*, 62 Wis.2d 86, 214 N.W.2d 425 (1974), *McNally v. Tollander*, 302 N.W.2d 440, 100 Wis.2d 490 (1981).

One area of the election statutes that the Legislature has determined should be read as mandatory, are some provisions related to the absentee voting process—Wis. Stat. §§ 6.86, 6.87(3) to (7)—and how absentee ballots should be treated at a recount—Wis. Stat. § 9.01 (1)(b)2. and 4. See Wis. Stat. § 6.84(1) and (2). In those instances, for example, when an absentee ballot certificate envelope is unsigned by the voter or the witness, those ballots cannot be counted. If absentee ballots were originally counted by the local board of canvassers in contravention of the absentee ballot procedures, those ballots during a recount “may not be included in the certified result of any election.” This is the basis for separating probable absentee ballots from regularly cast ballots during a recount—the mandatory versus directory treatment of ballots cast in contravention of an absentee procedure contained in §§ 6.86 or 6.87(3) to (7).

With the noted exception above for certain absentee ballot procedures, the Commission staff (as well as the former State Elections Board staff and the former Government Accountability Board staff) provides guidance that is intended to give effect to the will of the electors which may apply a directory reading of the statutes, given a specific fact scenario. This may happen when, for example, a question is received as to whether a drawdown should occur when the election officials can identify the issue, it was no fault of the voter that more ballots exist than voters, the total number of ballots issued at a polling place reconciles with the total number of voters (but not within the reporting unit, meaning incorrect ballots were likely issued), and there is no evidence of any fraud or malfeasance. In such cases Commission staff often advise that a draw down is not the best practice, although the final decision is

up to the board of canvassers. Drawing down requires the removal of a ballot, or ballots, at random and is generally viewed as a last resort option because the result will likely disenfranchise a random voter—something that the Legislature was arguably trying to avoid by inserting the language contained in Wis. Stat. § 5.01(1).

Election Official Error vs. Voter Error

Another line of cases which factors into advice provided by Commission staff, especially during a recount, concerns the identity of the individual that committed an error. The error is magnified when it results in the number of voters and ballots failing to reconcile which could trigger a random draw down of ballots prior to the counting of ballots at the recount. The question becomes whether a voter and their properly cast ballot should be subject to random removal and potential disenfranchisement if an error was committed by an election official and not the voter. Removing ballots through the draw down procedure when an election official issued a voter the wrong ballot or failed to initial a ballot does not seem to agree with the Legislature's construction of election statutes set forth in Wis. Stat. § 5.01(1) and caselaw below.

The Wisconsin Supreme Court has stated:

...The voter's constitutional right to vote cannot be baffled by latent official failure or defect.
Ollmann, 238 Wis. at 579.

In *State ex rel. Symmonds v. Barnett*, 182 Wis. 114, 195 N.W. 707 (1923), the ballot of certain voters were not counted, because the voter's names did not appear on the voter registration list. These voters were, however, duly registered voters who had voted in the preceding primary election. Only the failure of the registration board to update the registration list explained the omission of their names. This Court ordered that votes of these voters must be counted, stating: As a general rule a voter is not to be deprived of his constitutional right of suffrage through the failure of election officers to perform their duty, where the elector himself is not delinquent in the duty which the law imposes on him. *State ex rel. Wood v. Baker*, 38 Wis. 171 (1875); *Barnett*, 182 Wis. at 127.

Because the right to vote is so central to our system of government, this Court has consistently sought to protect its free exercise. *McNally v. Tollander*, 302 N.W.2d 440, 100 Wis.2d 490 (1981). In the *Ollmann* case, ballots were initialed by only one election official, rather than being initialed by two election officials per the statutory requirement. The Wisconsin Supreme Court held that the ballots with only one set of initials were properly counted, stating that: "The voter would not knowingly be doing wrong. And not to count his vote for no fault of his own would deprive him of his constitutional right to vote...A statute purporting so to operate would be void, rather than the ballots." *McNally*, 100 Wis.2d at 502 citing *Ollmann*.

When questions are asked by local officials regarding how to treat a ballot, especially in recount situations, who made the error is a factor that is considered when rendering advice based on the decisions issued in these cases. Without considering this factor, election officials with ill intentions could potentially manipulate election results by purposefully committing errors (issue wrong ballots, fail to apply required election official notations to the ballot), knowing that ballots will automatically be drawn down or a new election potentially ordered if errors are discovered and the statute requiring a draw down is applied in a mandatory fashion without considering the source of error.

In such cases, where it is clear that an error has been committed by an election official, the voter is not at fault and there is no evidence of fraud or malfeasance, Commission staff often advise that a draw down is not the best practice, although the final decision is up to the board of canvassers. Drawing down requires the removal of a ballot, or ballots, at random and is generally viewed as a last resort option because the result will likely disenfranchise a random voter—something that the Legislature was arguably trying to avoid by inserting the language contained in Wis. Stat. § 5.01(1).

Board of Canvassers Discretion

Despite advice provided by Commission staff when asked by a board of canvassers, ultimately that statutory body retains the authority and discretion to make decisions it deems appropriate. Statutes specifically provide the board of canvassers the authority to count and recount ballots and correct errors that may have occurred during the initial canvassing of ballots and certification of results. See Wis. Stat. §§ 7.51, 7.52, 7.53, 7.60 and 9.01(1) and (5). The board of canvassers is comprised of an odd number of individuals and takes into account party balance when

possible in its composition. Courts rely on the determination and reasoning of the board of canvassers when determining if a decision on appeal was properly decided and gave effect to the will of the electorate. See *DeBroux v. Board of Canvassers for the City of Appleton (Three Cases)*, 557 N.W.2d 423, 206 Wis.2d 321 (Wis. App., 1996) (“As the SEB notes in its brief, the statutory scheme for a recount ‘places a premium’ on the Board’s judgment to give effect to the will of the electorate.”)

The Commission’s procedures set forth in the Recount Manual, as well as the advice provided when a local election official or member of the board of canvassers asks a specific question on the treatment of a ballot, many times in the context of a recount, strives to be consistent with the intent of the election statutes and the supporting caselaw.

While the draw-down procedure for example, is effective at creating ballot and voter totals that reconcile, it is not an effective tool for determining and removing the exact offending ballot or ballots, which caused the number of ballots to not match the number of voters. Rather than recommend a procedure that will likely disenfranchise a random voter due to an error made by an election official, the Commission staff’s approach has been to advise a board of canvassers that they have some discretion to avoid a draw-down if they can identify an explanation as to why the discrepancy occurred, considering the factors discussed above.

Ultimately, the decision of the board of canvassers is what is challenged in court, not the advice rendered by the Commission staff. The Commission staff, however, believes the board of canvassers should be provided with advice that considers the cases discussing the “directory vs. mandatory” application of election statutes as well as considering who made the error that has generated the question in the first place. Any decisions made should consider “the will of the electors, if that will can be ascertained from the proceedings, notwithstanding informality or failure to fully comply with some of their provisions.”



Wisconsin Elections Commission

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DATE: For the November 18, 2020 Commission Meeting

TO: Members, Wisconsin Elections Commission

FROM: Meagan Wolfe, Administrator
Richard Rydecki, Deputy Administrator

SUBJECT: Public Health Guidance for Recount Proceedings

In preparation for a statewide recount Wisconsin Elections Commission (WEC) staff has worked with a public health professional from the Wisconsin Department of Health Services to develop suggested procedures for counties to apply to recount planning and setup efforts. These procedures follow the same concepts we have stressed throughout the 2020 elections that have been conducted during the COVID-19 pandemic. Public health considerations such as hand hygiene, face coverings, social distancing and COVID-19 symptom screenings should be incorporated into any recount setup. New considerations must be made to account for how recounts differ from administering voting at polling places or during the in-person absentee period.

Conducting a recount requires a significant number of people to be present in the same room or facility, including Board of Canvass members, tabulators, candidate representatives, public observers and other staff to assist with administrative and security-related tasks. The recount timeline also requires participants to be present in enclosed areas for long periods of time until the recount is complete. State law requires any recount to be completed within 13 days of the issuance of the recount order and several counties have expressed they will need the majority of that time to complete all required procedures before the deadline. In addition, a recount requires tabulators and Board of Canvass members to work within close proximity of one another and allows candidate representatives to be close enough to review each ballot before it is tabulated. All of these factors were presented to the public health official who assisted with the development of this guidance and have been considered in the procedures outlined below.

Space Considerations

In order to keep all participants and observers spaced out appropriately during the recount, counties have had to consider securing a larger space during their planning process. Additional space provides the ability to space out tables where tabulators are working while still allowing for multiple reporting units or municipalities to be recounted at the same time. WEC staff has discussed this option on several calls with county clerks in preparation for the recount and many indicated they identified and reserved larger spaces to conduct the recount.

The use of a larger space was confirmed as a recommended option by DHS as the larger space will allow for increased airflow that prevent aerosols from building up throughout the day. Any practices that increase the percentage of outdoor air in the recount space are recommended, such as opening windows and propping open doors, if possible. You may be able to work with the vendor or owner of the recount space to increase total airflow supply to occupied spaces, if possible. This can be done by disabling or changing the settings of demand control ventilation (DCV) controls that reduce air supply based on temperature or occupancy.

Because of the prolonged nature of the recount, county officials may also consider the use of UV sanitation lights and additional ventilation, such as fans, where practicable. Some of these additional efforts may help to combat accumulation of aerosol particles. However, care should be taken in regard to where these items are utilized. For example, additional fans would not be appropriate directed at a table of paper, election materials, but a portable UV

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Administrator
Meagan Wolfe

light may be.

Setup Considerations

The recount space should be set up so that there is adequate space between all participants and observers but allows for transparency and efficiency throughout the process. Signs, tape marks, or other visual cues such as decals or colored tape should be used on the floor, placed six feet apart, to keep the recount area organized and to ensure space between all parties when physical barriers are not possible.

Tabulators are required to work in pairs when hand counting ballots and candidate representatives have the ability to review (but not touch) ballots before they are tabulated. For those that must work closely together, it is recommended some physical barriers (e.g., plexiglass shields) are used to provide protection between participants. These barriers can be the tabletop shields that many municipal clerks used on election day at polling places or in their offices during in-person absentee voting. Counties can coordinate with their municipal clerks to borrow excess shields that can be used during the recount.

Tables used for the recount should be arranged in a way that ensures adequate distance between participants and observers. The number of people assigned to each table should also be limited. Arrange chairs in seating areas by turning, draping (covering chair with tape or fabric so seats cannot be used), spacing, or removing chairs to maintain social distancing. Identifying chairs that should not be used will be essential if rooms are used during the recount that have permanent seating, such as county board meeting rooms.

Designated candidate representatives should be able to review a ballot during the recount proceedings. This will require the implementation of a system for the representative to safely examine the ballot without violating social distancing standards. Clear tabletop barriers can be used for this purpose, but other methods may be used depending on the set up and needs of each recount site.

Additional observers, beyond the party representatives who need to be allowed access to see voting materials, may be asked to remain in an area designated by the county officials that accounts for social distancing. Current public health guidance is that a six-foot distance should be maintained meaning that non-party representative observers should expect that they will be asked to stay at least six feet from recount workers and other observers.

Screening Questions

All individuals entering the recount facility or room should be screened to determine if they are exhibiting symptoms of COVID-19. Symptomatic individuals should not be allowed to participate in or observe the recount proceedings until they are free from symptoms. These questions were developed with the assistance of public health officials from the Wisconsin Department of Health Services.

1. Have you come in contact with a person known or suspected to have COVID-19?
2. Have you had a fever or chills in the last 24 hours?
3. Have you had a cough in the last 24 hours?
4. Have you had any shortness of breath or difficulty breathing in the last 24 hours?
5. Have you had any unexplained muscle or body aches in the last 24 hours?
6. Have you experienced a loss of taste or smell within the last 24 hours?
7. Have you had a sore throat within the last 24 hours?

If you answered "yes" to any of the seven questions, you should not participate in or observe at the recount today.

Face Coverings

Face coverings should be required of all people inside the recount space to help prevent the spread of COVID-19 among participants. Larger spaces and workstations that are spread out to account for social distancing will help minimize potential transmission of the virus but recount procedures still require tabulators and observers to be in close

proximity to one another and face coverings should be required to increase the safety of all involved in the recount. The Executive Order requiring face coverings is still in effect while legal challenges to that order are settled by the courts and other counties may have local public health orders that also require face coverings. The Board of Canvassers conducting the recount should clearly communicate with those attending the recount about social distancing, face coverings and hand hygiene health guidance prior to the start of the recount to ensure all individuals participating are aware of the role they play in keeping the location safe. It is recommended that County Clerks have additional disposable face coverings available for tabulators and observers who do not have their own upon arrival at the recount facility.

Hand Hygiene and Surface Cleaning

Strict hand hygiene and surface cleaning procedures should also be incorporated into the protocols at recount sites to minimize potential surface transmission of the virus. These procedures are familiar to election officials and have been recommended since the onset of the pandemic earlier this year. Participants and observers should be required to wash or sanitize their hands upon entry to the recount facility. In addition, tabulators should wash or sanitize their hands regularly throughout the day. If gloves are used, recount participants should take care when removing those gloves so as to not contaminate their bare hands in the process. After gloves have been removed, hands should be washed or sanitized to minimize the chance for COVID-19 transmission.

Surfaces such as tables and voting equipment should also be disinfected regularly throughout the day. Information on recommendations for election specific cleaning and disinfection are available on the Centers for Disease Control and Prevention webpage. In addition, approved cleaning procedures provided by your voting equipment vendor should be used to clean any voting equipment at regular intervals during the day. Best practices for cleaning different models of voting equipment can be found here: <https://elections.wi.gov/node/6723>.