

# Wisconsin Elections Commission

Special Teleconference-Only Meeting

Friday, March 27, 2020

4:15 P.M.

*Due to the COVID-19 pandemic, this meeting is being held via teleconference only. Members of the media and the public may attend by calling 1-855-947-8255. The passcode is 42463#. All public participants' phones will be muted during the meeting.*

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## AGENDA – OPEN AND CLOSED SESSION

- A. Call to Order (4:15 p.m.)**
- B. Administrator's Report of Appropriate Meeting Notice**
- C. Closed Session (approximate time, 4:20 to 4:45 p.m.)**
  - 1. Discussion of Litigation Strategy**
    - 19.85 (1) (g)            The Commission may confer with legal counsel concerning litigation strategy.
- D. Return to Open Session (approximate time 4:45 p.m.)**
- E. Discussion of Election Day Procedures, Supplies and Poll Workers**
- F. Discussion of Hospitalized Electors and Absentee Ballot Procedures**
- G. Adjourn**

*This notice is given pursuant to Wis. Stat. § 19.84(3) which provides for two hours advance notice of a meeting when it is impossible or impractical to provide at least 24 hours' notice.*

*The Elections Commission will convene in open session and then immediately move to closed session under Wis. Stat. § 19.851. The meeting is noticed for the Commission to return to open session.*





# Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8005 | elections@wi.gov | elections.wi.gov

**DATE:** For the March 27, 2020 Commission Meeting  
**TO:** Members, Wisconsin Elections Commission  
**FROM:** Meagan Wolfe, Administrator  
Wisconsin Elections Commission  
**SUBJECT:** COVID-19 Supplies and Spending Authority

At the March 18 Commission meeting, the Commission delegated additional spending authority the Administrator for COVID-19 supplies of up to \$200,000. 2020 HAVA Election Security grant funds can be used for COVID-19 expenses and all purchases of such supplies for local election officials have been thus far purchased using these grant funds. Below is a chart of current expenditures as of 3/27/2020:

Product/Service	Quantity	Cost
Absentee Envelopes/Printing	600,000	\$13,024.19
Absentee Envelopes/Printing	600,000	\$18,270.00
Ethyl Alcohol (1-liter bottles)	5832	\$72,608.40
16-ounce spray bottles/ Spray Tops	7,008	\$28,522.56
Avery Labels for Sanitizer bottles	7	\$97.93
Avery Labels for Sanitizer bottles	51	\$560.49
Shipping Envelopes		\$5,000.00
	<b>TOTAL</b>	<b>\$138,083.57</b>

Additional supplies may be needed. For example, we have requested the following additional supplies and services that may need to be purchased, if available, in the coming day. We do not yet know the cost of these items. The items we have put in tickets for at the State Emergency Operations Center (SEOC) or through state procurement include:

- Shipping and distribution services for the above supplies
- 300,000 additional absentee ballot envelopes to prepare for the event of an extended period and for Congressional District 7
- Isopropyl wipes or isopropyl liquid with paper towels to clean voting equipment and touch screens
- Paper towel to be sent with ethyl alcohol spray for cleaning polling place surfaces
- 1.5 million pens, for voters on election day
- Hand Sanitizer and surface wipes, should they become available

Staff requests delegation of an additional \$200,000 in spending authority to the Administrator for the purchase of COVID-19 supplies using 2020 HAVA Election Security grant funds.

*Wisconsin Elections Commissioners*

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

Administrator  
Meagan Wolfe



**Item E.2.i**  
**Election Day Checklist for Polling Places**

**Developed by WEC Staff with Advisement of DHS  
Public Health Official**

# Election Day Checklist for COVID-19 Procedures

## Polling Place Facility Considerations

- Keep entrance doors open if possible. Minimize knobs, handles, etc. that voters need to touch.
- Larger rooms or facilities recommended where lines for voters to wait can form with at least 6 feet between voters.
- Larger rooms or facilities are also recommended to help with spacing out voting process to maintain 6 feet between voters.
- Voters and poll workers should not be allowed to congregate in the building
- Potlucks and bake sales should not be offered. Communal eating, such as pizza or crock pot dishes, should be avoided. Pre-packaged or single serving food or snacks are acceptable.

## Poll Worker Considerations

- People over the age of 65 or with the following underlying health conditions are considered more at risk of serious infection from COVID-19. It is suggested that individuals in these categories not serve as poll workers. Underlying conditions that make an individual susceptible include those who have chronic lung disease, moderate to severe asthma, serious heart conditions, immunocompromised status (e.g., poorly controlled HIV/AIDS, cancer patients), and pregnant women.
- Poll workers should be screened on election day. They should be asked the following questions:
  1. Have you come in contact with a person known or suspected to have COVID-19?
  2. Have you had a fever in the last 24 hours?
  3. Have you had a cough in the last 24 hours?
  4. Have you had any difficulty breathing in the last 24 hours?
  5. Have you had any unexplained body aches in the last 24 hours?
  6. Have you taken any medications that would reduce a fever? (Tylenol, Ibuprofen, Acetaminophen)

If they answer 'No' to any of the six questions they should not be allowed to work on election day.

## Signage and Line Management

- Signage should be posted outside of building or prominently displayed on a window that reads, "HEALTH ALERT! Do not enter this building if you are experiencing any of these symptoms or have been in contact with anyone with these symptoms: shortness of breath, sore throat, achiness, fever (100.4F), nasal congestion, or cough."
- A greeter could also be used to ask voters these questions as they enter the building or voting area.

- ❑ Where lines form, use tape on floor or other markers every 6+ feet to show where voters should stand to maintain proper social distancing.
- ❑ Signs should be placed in the polling place where lines form that read: “Please exercise proper social distancing while voting by maintaining at least 6 feet between yourself and other voters and poll workers.”
- ❑ Limit the number of people allowed in the building at once to allow for proper social distancing and avoid crowding.
- ❑ Have a greeter managing the number of people allowed in building at once and then showing them how to form a line using proper social distancing spacing.
- ❑ Signs could also be used throughout the voting process; for example, signage at the poll book about the process to follow. “Place ID on square on table and step back behind the line.”
- ❑ If there are children with the voter, see if there is an alternative to bringing the children in to the polling place (ex. two parents voting take turns while one stays outside with kids).

#### **Hand Hygiene for Voters and Poll Workers**

- ❑ When sanitizing product is applied to hands or surfaces, it is most effective when it is allowed to air dry and is not wiped. Do not blow on hands or surfaces to dry.
- ❑ Upon a voter entering the building, they should sanitize their hands using a hand wash station, hand sanitizer, or WEC provided alcohol spray sanitizer.
- ❑ After casting their ballot, voters should sanitize their hands using a hand wash station, hand sanitizer, or WEC provided alcohol spray sanitizer.
- ❑ Poll workers should break to wash their hands or apply sanitizer every 10 minutes, if feasible. Using soap and water to clean hands for at least 20 seconds is the preferred method.
- ❑ Poll workers should also avoid touching their eyes, nose and mouth.

#### **Observers**

- ❑ Observers should only be accommodated if capacity for the observer area has not been exceeded and social distancing standards can still be maintained.
- ❑ Observers areas should be established at least 6 feet away from voters, poll workers, and observers should be seated at least 6 feet from one another.
- ❑ Observers should be offered hand sanitizer upon entering the facility and upon leaving.
- ❑ Observers can be asked the same screening questions as those asked of poll workers.

### **Cleaning Surfaces**

- Surfaces, such as tables, doorknobs, and voting booths should be wiped down every 10 minutes with either a 70%+ isopropyl alcohol or 60%+ ethanol alcohol cleaner.
- Touch screens on voting equipment or electronic poll books should be cleaned after each voter, or as often as feasible (every 10 minutes). Only 70%+ isopropyl cleaning wipes should be used on touch screens.
- Pens used by voters to sign the poll book and mark their ballot should either be sanitized between each use or should be taken by the voter/ disposed of.

### **Polling Place Process Considerations**

- At the poll book table, place a taped off square on the table. Ask the voter to place their photo ID on the table in the square, then ask them to step 6 feet away to a spot marked on the floor. Both poll workers managing the poll book should look at the photo ID without touching it. When the poll workers have completed their review, they will ask the voter to step forward and retrieve their photo ID.
- The poll book should be slid forward on the table and the poll worker step back when the voter approaches to sign. Signature guides should be used to indicate where the voter signs. These need to be sanitized after every 10 voters.
- Voter Registration - Voters can complete the form from a safe social distancing spot and then place the form and their proof of residence document on the table and step back behind the six foot line
- Voter Registration - Poll worker or ERO would then verify the voter registration form and proof of residence document and complete and sign the form while the voter waits behind the six foot line
- Voter Registration – If proof of residence (POR) is shown electronically, the voter should place the device on the table for the poll worker or ERO to verify their POR and step back behind the 6 foot line to wait for the poll worker or ERO to complete and sign the form

**Item E.2.iii**  
**Poll Worker Screener**

**Developed by WEC staff with advisement of DHS public health official**

## Poll Worker Screener for COVID-19

1. Have you come in contact with a person known or suspected to have COVID-19?
2. Have you had a fever in the last 24 hours?
3. Have you had a cough in the last 24 hours?
4. Have you had any difficulty breathing in the last 24 hours?
5. Have you had any unexplained body aches in the last 24 hours?
6. Have you taken any medications that would reduce a fever? (Tylenol, Ibuprofen, Acetaminophen)

**If you answered 'yes' to any of the top 6 above questions you should not serve as a poll worker today.**

**Item E.2.iii**

**Polling Place Signs**

**Developed by WEC Staff with advisement of DHS public health official**

# HEALTH ALERT

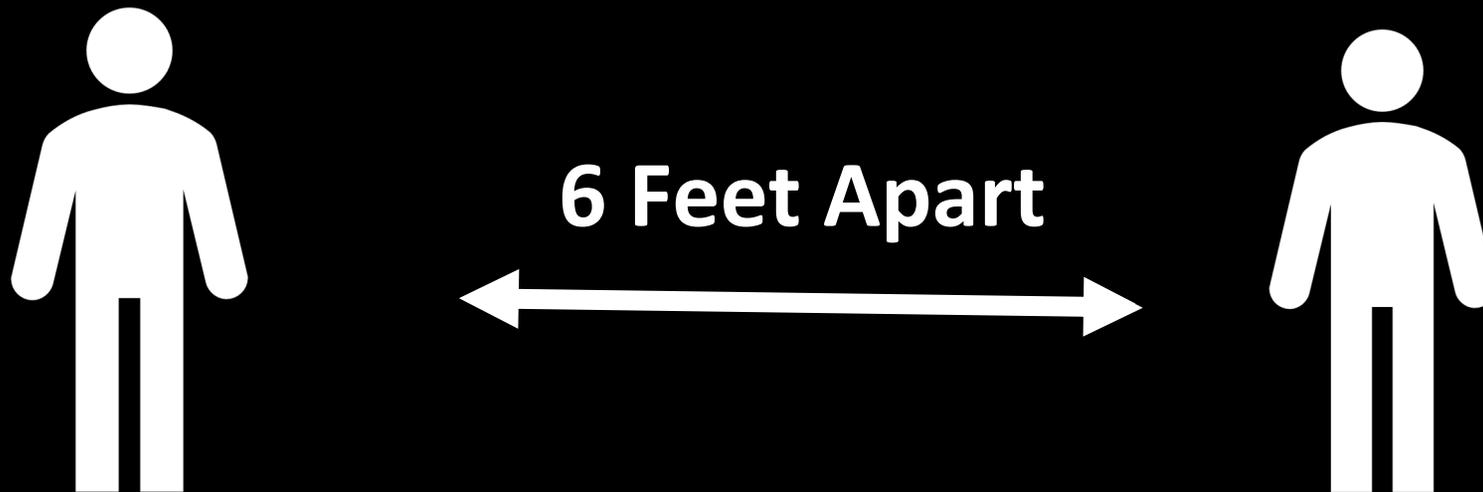
Do not enter this building if you are experiencing any of these symptoms or have been in contact with anyone with these symptoms:

- **Shortness of Breath**
- **Cough**
- **Fever (100.4F)**
- **Nasal congestion**
- **Sore Throat**
- **Achiness**

**Please exercise proper social  
distancing while voting**



**Maintain at least 6 feet between  
other voters and poll workers**



# STOP!

Follow Poll Workers Instructions

## Photo ID & Poll Book Procedures

**Step 1-** Place photo ID face up on table

**Step 2-** Voter steps back 6 feet from table

**Step 3-** Poll Worker reviews ID and finds record

**Step 4-** Voter signs poll book and retrieves ID

# STOP!

**Follow Poll Workers Instructions**

## **Voter Registration Process**

**Step 1-** Fill out registration form and sets completed form and proof of residence on table where instructed

**Step 2-** Voter steps 6 feet away from table while poll worker processes form

**Step 3-** Step up to the table and retrieve proof of residence materials only once instructed to do so





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**DATE:** For the March 27, 2020 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe, Administrator  
Wisconsin Elections Commission

**SUBJECT:** Election Day Procedures: Curbside Voting, Drive-Through Voting, Outdoor Polling Places

Commission staff have received many inquiries from the clerks, voters and advocacy groups regarding the legality and feasibility of conducting voting on Election Day using only “curbside voting” as set forth in Wis. Stat. § 6.82(1), allowing individuals to “drive-through” vote or move polling places outside of the traditional building to allow for more social distancing for voters and inspectors. There has also been some confusion regarding the terminology being used to describe the voting options and polling place setup being proposed by municipal clerks. Commission staff intend to provide a communication to clerks that will address these questions as planning continues for the April 7 election.

## 1. Curbside Voting

### **What is “curbside voting?”**

The Commission’s Election Day Manual (pgs. 66-67) provides recommended procedures for conducting curbside voting which are consistent with Wis. Stat. § 6.81(1). “A voter who, as a result of a disability, is unable to enter the polling place may elect election to receive a ballot at the entrance of the polling place.” Wis. Stat. § 6.82(1). Election inspectors confirm with the voter that they are unable to enter the polling location and then accommodate the voter by observing the photo ID, having the voter complete a voter registration form and showing proof of residence (if necessary), and vote the ballot while still in the vehicle. To avoid removal of the pollbook from the polling location, the curbside voter is exempt from signing the pollbook. Instead, a notation is made on the pollbook indicating that the ballot was cast at the entrance of the polling location and that the person was exempt from signing. If there is no objection, the ballot is then placed in the tabulator or ballot box by the inspector and the incident is logged on the Inspectors’ Statement.

### **Can “curbside voting” be the only voting method offered at a polling place on Election Day?**

Commission staff believe the statutorily prescribed process for “curbside voting” under Wis. Stat. § 6.82(1) is reserved for voters that appear at the polls and make a specific request to vote from their vehicle because they are unable to enter the polling place because of a disability. “Curbside voting” should be offered by municipalities, just like any other election but it cannot be the only method of voting. An increase in usage of that process due to current health and safety recommendations should be

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Administrator  
Meagan Wolfe

part of any election day plan for April 7. Municipalities should review curbside voting procedures with their inspectors in case an increase in requests materializes.

## 2. Drive-Through Voting

### **Can a municipality offer voters the opportunity to “drive-through” vote at a polling location?**

“Drive-through” voting, as it has been asked about by municipal clerks would be different than curbside voting. The public, the press and some clerks are using these phrases interchangeable, which has caused some confusion. Unlike curbside voting which has specific statutory procedures and exemptions (like signing the poll book), Commission staff believe drive-through voting would need to substantially meet the procedures normally reserved for voting in a traditional “brick and mortar” polling location. Many of the recommendations below would also apply to municipalities that are considering moving a polling location outside to an area with better ventilation or one that has more space.

If a municipality is considering offering “drive-through” voting for its voters, at a minimum, the Commission staff believes the following issues should be taken into consideration.

#### Publicize Changes to Process

If a municipality choose to offer drive-through voting, publicizing this change for voters will be important. Municipalities should do their best to reach voters via direct mail, media, social media, municipal webpage and postings around the municipality to notify voters of the option to vote drive-through. Municipalities should publicize all of the voting options that will be offered at the polling location, and brief instructions on how those processes will work.

#### State Name and Address

Unless unable to state their name and address as permitted by law, the voter shall state their name and address, and the inspectors shall determine if the voter is on the pollbook and is eligible to receive a ballot. In a drive-through voting situation, a municipality will have to ensure that the inspectors and any observers are able to hear the voter, even if they remain in their vehicle. Appropriate health and safety measures must also be considered.

#### Photo ID Requirements

Voters utilizing drive-through voting are still required to present an acceptable photo ID prior to a ballot being issued. Inspectors need not handle the photo ID, but the inspectors must be able to determine that it is a valid ID under the law, the photo reasonably resembles the individual and the name is substantially the same as the name on the pollbook. The same process inspectors would use had the person presented to themselves at the pollbook table in a traditional polling location. In a drive-through voting situation, a process for inspectors to view and verify the photo ID against the pollbook will need to be established. Appropriate health and safety measures must also be considered when establishing the view and verification process for photo ID.

#### Signage, Traffic Control, Line Management

To ensure proper flow of traffic in and out of the drive-through location, proper signage and traffic control measures to assist with voter line management needs to be considered. Proper traffic flow to minimize long lines of cars is important so as not to deter individuals from appearing at the location.

### Election Day Registration Opportunity

If voting is going to occur via drive-through, municipalities should decide if Election Day Registration will also be offered using the same method. Similar to a traditional polling place setup, municipalities should decide if there are different drive-through lanes for already registered electors and electors that need to register/change name/change address.

Election Registration Officials conducting registration for voters should be mindful of the same health practices being practiced by officials verifying photo ID and having voters sign the pollbook.

### Pollbook

Unless unable to sign the pollbook due to a disability as permitted by law, the voter shall sign the poll book prior to receiving a ballot. A voter may use their own writing utensil to sign the pollbook or use a writing utensil provided by the municipality. Voters should be advised to only sign the pollbook, and not to unnecessarily touch other portions of the poll book if possible. A process for frequently cleaning the utensils used to sign the book, or in the case of electronic pollbook, the device, should be established to limit exposure by individuals using shared writing utensils. If a municipality uses a “drive-through” option for voting, “curbside voting” would likely not be needed, as many voters would be voting from their vehicles, and not just those individuals that are unable to enter the polling place due to a disability. Other best health practices, like offering hand sanitizer (when available) to the voter before they sign the pollbook and vote their ballot should also be considered.

### Casting the Ballot/Ballot Security

Once a voter has completed the ballot, municipalities should determine how the voter will be able to place the ballot into tabulation equipment or a ballot box while remaining in the car. The Commission recommends that inspectors assist voters in completing the process. Municipalities could provide a security sleeve that the voter may place the ballot it while the inspector transports the ballot (in view of the voter) to the tabulation equipment or ballot box. If feasible, a voter could insert a ballot into the tabulation equipment or ballot box depending on the setup of the location. Commission staff would advise against a voter going station to station (ballot station, registration station, voting station, submission station) as voters may drive away with ballots without casting them.

### Observers

Municipalities should ensure that there is reasonable opportunity for the public to observe the public aspects of the voting process. A designated observer area should be established and marked if members of the public wish to observe voting. Depending on the setup of the drive-through location, multiple observer locations may be necessary to enforce social distancing amongst observers while also allowing for observation of voter check in and registration transactions.

### Accessibility

Drive-through voting should be accessible to all voters in the community, including individuals with disabilities. Required notices regarding the election must also be posted and visible for individuals utilizing the drive-through process, including any notices that are to be posted in alternative languages under federal law. ADA compliant accessible voting equipment must be available at all polling locations, regardless of the setup.

### Alternatives to Drive-Through Voting

Individuals that are unable or unwilling to use the drive-through process should have the ability to vote using traditional methods in the polling location, or the location that may have been moved outdoors to complement the drive-through voting option. This would include the use of accessible voting equipment if requested.

### Miscellaneous

Access to accessible voting equipment should be available to individuals that are unable to cast a ballot using the drive-through procedure.

A rehearsal of the drive-through process to work out any potential roadblocks or pinch points in the process is strongly recommended.

### 3. Moving a Polling Location Outside

#### **Can a municipality move its polling location outside?**

Commission staff believe that there is nothing that would prohibit a municipality from moving its polling place operations outside, as long as all legal requirements and procedures can be accomplished at the location outside despite it being outside. Moving the location outside could help with maintaining proper social distancing for voters appearing at the polls and the inspectors administering the election.

The same considerations recommended above for drive-through voting may apply to an outdoor polling location, and municipalities should have a backup plan in case weather or other unforeseen events that could occur due to holding an election at an outdoor polling place.

Item E.4  
Potential Absentee Public Outreach Campaign

Developed by KW2 for WEC



Date: 3/17/20  
 To: WEC  
 From: KW2  
 Subject: Digital Media Estimate\_2020 Primary Election COVID-19 Response

**General Comments:**

The following memo outlines a cost estimate and tactical recommendations to encourage Wisconsin voters to request absentee ballots ahead of the 2020 presidential primary election.

**Goal:**

- Encourage registered Wisconsin voters to request an absentee presidential primary ballot on myvote.wi.gov before April 2

**Audience**

Demographics:

- 18+
- Wisconsin resident
- Registered to vote

Size:

- 3.3 million (of approx. 4.5 million eligible adults)

**Considerations:**

A number of considerations were taken in to account to plan and estimate cost:

- Audience size & potential waste (expect 30-37% waste by reaching unregistered Wisconsin residents)
  - Potential list of voter addresses to reduce likelihood of waste
- Audience overlap across various digital channels & audience skew (demographics) of each channel
- Expected voter turnout (approx. 50% average turnout in 2012 & 2016 primaries)
- Anticipated required ad frequency to drive absentee ballot requests (approx. 10 impressions per person to drive a conversion)

**Estimates by Tactic**

Platform/Tactic	Estimated Reach (registered voters)	Estimated Waste	Estimated Impressions	Estimated Cost	Audience Skew*
Facebook/In-Feed (Image, Video)	2,277,000	30%	6,000,000	\$54,000	Female, 30-55
Instagram/In-Feed, Story	1,221,000	30%	3,330,000	\$22,500	Female, 18-30
Twitter/In-Feed	726,000	36%	2,000,000	\$11,500	Male, 30-50
YouTube/TrueView (pre-roll)	2,409,000	30%	6,500,000	\$48,750	Male, 18-45



Local News/Display, Video	2,691,035	25%	7,500,000	\$75,000	40+
Political Content/Display	3,149,927	25%	6,000,000	\$36,000	18-45
<b>Total</b>	<b>3,149,927</b>	<b>28%</b>	<b>31,330,000</b>	<b>\$247,750</b>	<b>60 and below</b>

\*Audience skew taken in to account to ensure as even delivery across all demographics as possible. Ads will not be targeted based on skew





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**DATE:** For the March 27, 2020 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe, Administrator  
Wisconsin Elections Commission

**SUBJECT:** **Guidance Regarding Indefinitely Confined Voters**

Wis. Stat. § 6.86(2)(a) states as follows:

An elector who is indefinitely confined because of age, physical illness or infirmity or is disabled for an indefinite period may by signing a statement to that effect require that an absentee ballot be sent to the elector automatically for every election. The application form and instructions shall be prescribed by the commission, and furnished upon request to any elector by each municipality. The envelope containing the absentee ballot shall be clearly marked as not forwardable. If any elector is no longer indefinitely confined, the elector shall so notify the municipal clerk.

Under Wis. Stat. § 6.87(4)(B)2 an elector who qualifies as indefinitely confined “may, in lieu of providing proof of identification, submit with his or her absentee ballot a statement signed by the same individual who witnesses voting of the ballot which contains the name and address of the elector and verifies that the name and address are correct.” Thus, indefinitely confined electors may satisfy the photo ID requirement by obtaining the signature of a witness on the absentee ballot certificate envelope.

Staff of the Wisconsin Elections Commission (WEC) have received numerous inquiries from local election officials, voters and organizations regarding the applicability of the indefinitely confined provisions in light of the developing COVID-19 pandemic and increased risk of exposure. In some cases staff has been asked to provide a bright line rule as to when an individual may designate themselves as indefinitely confined. Must the voter be diagnosed with COVID-19? Residing in the same household with someone who has been diagnosed with COVID-19? What about individuals who are self-quarantined because they suspect or are concerned that they may have been exposed but are asymptomatic? And given the recent emergency orders of the Governor and Department of Health Services, and medical advice that asymptomatic individuals may be infected or may be carriers of the virus, may a voter designate themselves as indefinitely confined because they fear being exposed or fear exposing others even though they are asymptomatic?

Building on the guidance historically provided regarding the application of Wis. Stat. 6.86(2), WEC posted the following statement as part of an FAQ document on March 22, 2020:

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Administrator  
Meagan Wolfe

### Indefinitely Confined Absentee Applications

WEC staff has received numerous questions from clerks about the increase in voters requesting absentee ballots as indefinitely confined. Wisconsin Statutes provide the option for a voter to self-certify whether they meet the definition of indefinitely confined. The statutory definition of "age, illness, infirmity or disability" does not require any voter to meet a threshold for qualification and indefinitely confined status need not be permanent. A voter with a broken leg or one recovering from surgery may be temporarily indefinitely confined and may use that status when voting during that period of time.

We understand the concern over the use of indefinitely confined status and do not condone abuse of that option as it is an invaluable accommodation for many voters in Wisconsin. During the current public health crisis, many voters of a certain age or in at-risk populations may meet that standard of indefinitely confined until the crisis abates. We have told clerks if they do not believe a voter understood the declaration they made when requesting an absentee ballot, they can contact the voter for confirmation of their status. They should do so using appropriate discretion as voters are still entitled to privacy concerning their medical and disability status. Any request for confirmation of indefinitely confined status should not be accusatory in nature.

There may be a need to do some review of the absentee voting rolls after this election to confirm voters who met the definition of indefinitely confined during the public health crisis would like to continue that status. WEC staff has already discussed this possibility and may be able to provide resources to assist clerks with these efforts.

It is important to note that indefinitely confined status does not require medical documentation and it does not require that the elector is completely restricted to their residence and unable to travel outside the residence. The statutory provision requires that the individual is "indefinitely confined because of age, physical illness or infirmity or is disabled for an indefinite period. . . ."

In recent weeks several organizations have publicized the option for electors to designate themselves as indefinitely confined in light of the public health circumstances. This week the Dane County Clerk and the Milwaukee County Election Commission issued statements regarding this issue which drew increased attention to the indefinitely confined option. Staff has received several inquiries requesting confirmation of the WEC's guidance and whether the statements issued by Dane and Milwaukee Counties were consistent with the WEC's guidance.

In the opinion of WEC staff, the designation of indefinitely confined should be an individual designation left to each voter who must determine whether they are confined to their residence because of age, physical illness, infirmity or disability. The question is whether "because of physical illness" may include individuals who have not been diagnosed with COVID-19 and yet believe they are confined due to the potential for being exposed or exposed to others with the virus.

The alternative method of complying with the photo ID requirement is a result of the elector's self-designation as indefinitely confined. It also illustrates one of the purposes of the designation which is to allow those individuals to satisfy the photo ID requirement in the event that they do not have a photo ID and will not be able to obtain one in a timely manner, or who have a valid photo ID but are unable to obtain a copy to mail in with their absentee ballot request or upload it with the request through MyVote Wisconsin. As stated in the guidance above, staff does not approve of the use of the indefinitely confined designation simply as a way to avoid the photo ID requirement for individuals who do not qualify for that status. Staff has also spoken with voters who find it impossible to submit a photo ID because they currently do not possess one or are unable to either copy or upload it.

As the Commission is aware, the Governor has declared a public health emergency and the Department of Health Services has issued several emergency orders due to the World Health Organization's declaration of COVID-19 as a global pandemic as well as guidance from the Centers for Disease Control and other public health officials. Emergency Order #12, issued on March 24, 2020, ordered Wisconsin residents to stay at their place of residence except for certain specified purposes. Residents are permitted to travel to engage in essential activities and essential governmental functions, including voting.

To respond to requests for further guidance, Commission staff proposes the following additional guidance intended to clarify the purpose and proper use of the indefinitely confined status under Wis. Stat. § 6.86(2).

1. Designation of indefinitely confined status is for each individual voter to make based upon their current circumstance. It does not require permanent or total inability to travel outside of the residence. The designation is appropriate for electors who are indefinitely confined because of age, physical illness or infirmity or are disabled for an indefinite period.
2. Indefinitely confined status shall not be used by electors simply as a means to avoid the photo ID requirement without regard to whether they are indefinitely confined because of age, physical illness, infirmity or disability.
3. Under the unique circumstances of the current public health crisis which includes a global pandemic and official restrictions on the travel of Wisconsin residents, in cases where an elector may possess a photo ID, but does not have the technology to upload a copy or access to a printer or scanner to provide a copy of their ID, the voter may make the individual determination that they qualify as indefinitely confined. If required, electors should attempt to provide a photo ID with their request for an absentee ballot. Submitting an absentee ballot request without a photo ID should be reserved for electors in this category who do not have a valid photo ID and are unable to obtain one for reasons of age, illness, infirmity or disability or who are unable to obtain a copy to submit with their request or upload an image of the ID with their electronic request.

Clerks have also asked WEC staff to provide guidance on if they can ask voters for proof or to verify the voter's indefinite confinement status. In the opinion of WEC staff it is not appropriate to require electors to include a separate statement documenting their reason for indefinite confinement, as it relates to their susceptibility to COVID-19 or for any other reason. The absentee ballot request form

asks voters to certify to their indefinitely confined status. Statutes do not establish the option to require proof or documentation from indefinitely confined voters. Staff has advised clerks that they may tactfully verify with voters that the voter understood the indefinitely confined status designation when they submitted their request but they may not request or require proof. WEC staff has also advised that there may be a need to conduct review of the absentee voting rolls after this election to confirm voters who met the definition of indefinitely confined during the public health crisis still feel they qualify upon the conclusion of the crisis.

### **Recommended Motion**

The Commission adopts the recommended guidance related to the use of indefinitely confined status as outlined above. The guidance described in paragraph numbered 3 above is to be implemented only while travel restrictions imposed by the Governor or Department of Health Services are in effect due to the current COVID-19 public health crisis.



# Wisconsin Elections Commission

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**DATE:** For the March 27, 2020 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe, Administrator  
Wisconsin Elections Commission

**SUBJECT:** Hospitalized Electors and Public Health Guidance

At its March 18 meeting, the Commission directed WEC staff to consult with public health officials to understand the impact of expanding the definition of hospitalized elector to include voters who are quarantined. The following analysis outlines the current process, the proposed process developed in consultation with a public health expert, and Q&A about the process.

## **Current Hospitalized Elector Process**

Under current law, a hospitalized elector can assign an agent (any qualified elector of their choosing) to serve as the carrier of application and ballot materials between the hospitalized elector and the municipal clerk's office. This process is currently reserved for those who are in a hospital or health facility and are unable to leave. The statutes allow the hospitalized elector provisions to be used in the week before an election and on election day.

## **Proposed Process for Those in Quarantine in Their Homes**

The Commission asked WEC staff to conceptualize a process if the definition of hospitalized were expanded to include those quarantined in their homes. The Commission also asked WEC staff to consult with a public health official to review the process. Steps 1 through 9 below were developed in consultation with a public health official to outline how the process could be structured to protect the health of the quarantined voter, the agent, and the clerk/poll worker.

**Step 1)** The voter would assign an agent to carrier materials between the voter who is quarantined and the municipal clerk's office. The agent can be any qualified elector of the voter's choosing.

**Step 2)** Voter washes or sanitizes their hands and takes extra care not to cough on ballot materials. Voter fills out an absentee ballot application and potentially a voter registration application. With the application(s) the voter also needs to provide a copy of their photo ID (or original ID) and potentially their proof of residence document. The voter could then place these materials on their front step, in a mailbox, etc. for the agent to retrieve. If time allows, it is recommended that the voter put the materials in a bag, so the agent does not need to touch the materials directly, and allow the materials to sit untouched for 24 hours before the application materials are retrieved.

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Administrator  
Meagan Wolfe

**Step 3)** Upon retrieving, the agent needs to complete the agent section on the quarantined voter's absentee application. The agent then brings the application(s) and related materials to the municipal clerk's office. The agent should wash or sanitize their hands after touching the voter's application materials.

**Step 4)** The agent presents the hospitalized voter's materials and documentation to the municipal clerk. The agent also needs to show the municipal clerk their own photo ID.

**Step 5)** The clerk issues the voter's ballot and ballot materials to the agent. The clerk should wash or sanitize their hands after touching the voter's application materials.

**Step 6)** The agent brings the ballot and balloting materials back to the quarantined voter. Again, the agent can place the materials outside the voter's door, in a mailbox, etc.

**Step 7)** Before retrieving their ballot materials, the voter should wash or sanitize their hands and take extra care not to cough on the ballot materials.

**Step 8)** The quarantined voter will need someone to witness their ballot. Most likely the agent would witness the voter marking their ballot through a window, door, etc. The quarantined voter marks their ballot and completes the voter certification. The agent/witness would then sign the certificate envelope and leave it outside for the voter to collect. The voter would collect the envelope, put their voted ballot in it and then place the ballot back outside for the agent to collect. Again, ideally the quarantined voter would place their voted, sealed ballot in a bag and leave it untouched for 24 hours before the agent retrieves it.

**Step 9)** The agent would then deliver the voted ballot back to the municipal clerk's office. If there is enough time, the agent or the voter may choose to return the ballot by mail to the clerk. The preferred method of delivery would be for the agent hand delivering the voted ballot to the clerk's office or polling place on election day to ensure it is received by 8pm on Election Day. The agent should wash or sanitize their hands after handling the voted ballot, and the clerk or poll worker should also wash or sanitize their hands after handling the voted ballot.

### **Questions About the Process**

Through the conceptualizing of this process, WEC staff asked the DHS public health official a series of questions. The first set of questions outlines concerns specific to voters in quarantine using the hospitalized elector process. The second set of questions outlines concerns specific to voters in hospitals as traditionally defined.

**1) Q: What is the definition of quarantine?**

A: Quarantine separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick.

**2) Q: Are there doctor's orders, etc. given to quarantined patients?**

A: The state health department generally develops criteria (e.g., positive test, high or medium risk exposure to a positive case) for who should be quarantined and communicates these criteria to health care providers and local health departments. Quarantined patients are contacted by their local and/or state health department if they meet these criteria, who provide instructions on quarantining and self-monitoring, but oftentimes, they may also receive these instructions from their physician.

**3) Q: Are there concerns about transmitting paper application and ballot materials from a quarantined voter?**

A: The primary concern would be exposure by the agent to surface contamination on the voter's application and/or ballot. If the voter was instructed to wash or sanitize their hands prior to completing the application and ballot, that would reduce the level of concern, although they could still cough or sneeze on these materials. The agent could also wear disposable gloves and place the ballot in a container for 24 hours to allow any contamination to degrade/die.

- 4) **Q: Are there recommended points in the process that the voter, agent or clerk should exercise hand hygiene? Example, should the quarantined voter sanitize/wash hands prior to interacting with the paper materials? Should the agent sanitize their hands prior to or after interacting with the paper materials?**

A: Yes, the voter should wash or sanitize hands before handling the application and ballot, and the agent should sanitize their hands after handling these materials and placing in another container.

- 5) **Q: What other concerns should we consider for quarantined voters or those who are serving as an agent for quarantined voters?**

A: Perhaps exposure to some residual contamination by someone processing the application or ballot, but this should be significantly/completely inactivated after 24 hours, if the processing can wait. Even if they sanitize their hands prior, the voter could contaminate the ballot by coughing, sneezing, breathing on it.

#### **Questions About Those in a Traditional Hospital**

- 1) **Q: Would an agent be allowed to access materials or take materials from a voter who is quarantined in a hospital or a health care facility?**

A: It seems most hospitals are strictly limiting non-essential visitors, so this could be a major impediment.

- 2) **Q: Would hospital personnel be allowed to serve as the agent and serve as a carrier for the materials?**

A: Perhaps, but they will likely be too busy to want to serve in this role.

- 3) **Q: What other concerns should we consider for voters using this process who are in a traditional hospital?**

A: Not so much for the voters, but the agents would be entering a high-risk situation.

#### **Conclusion**

There are many considerations for safely facilitating the agent/hospitalized elector process for someone in quarantine. It may be too complex to administer safely with untrained agents. The recommended time for isolating materials may also make it difficult for the ballot to be returned timely. All qualified voters should consider voting by mail, to avoid the potential they may be unable to leave their home to vote in person. Voters who are quarantined prior to election day should also request their ballot by mail. The time to transmit the ballot will allow at least 24 hours for any contamination to degrade. If a voter is in a hospital, it may be difficult for them to coordinate with an agent as most hospitals are not allowing visitors at this time and medical personnel will be too busy to serve as an agent. Hospitalized voters should work with the personnel in the hospital where they are located to safely follow the hospitalized elector process in accordance with hospital policy. Again, all voters should consider voting by mail to avoid the possibility they may be hospitalized or otherwise unable to vote in person on election day.

### **6.86(3) Hospitalized Elector Statutes**

1. Any elector who is registered and who is hospitalized, may apply for and obtain an official ballot by agent. The agent may apply for and obtain a ballot for the hospitalized absent elector by presenting a form prescribed by the commission and containing the required information supplied by the hospitalized elector and signed by that elector, unless the elector is unable to sign due to physical disability. In this case, the elector may authorize another elector to sign on his or her behalf. Any elector signing an application on another elector's behalf shall attest to a statement that the application is made on request and by authorization of the named elector, who is unable to sign the application due to physical disability. The agent shall present this statement along with all other information required under this subdivision. Except as authorized for an elector who has a confidential listing under s. [6.47 \(2\)](#) or as authorized under s. [6.87 \(4\) \(b\) 4.](#), the agent shall present any proof of identification required under sub. [\(1\) \(ar\)](#). The form shall include a space for the municipal clerk or deputy clerk to enter his or her initials indicating that the agent presented proof of identification to the clerk on behalf of the elector.
2. If a hospitalized elector is not registered, the elector may register by agent under this subdivision at the same time that the elector applies for an official ballot by agent under subd. [1](#). To register the elector under this subdivision, the agent shall present a completed registration form that contains the required information supplied by the elector and the elector's signature, unless the elector is unable to sign due to physical disability. In this case, the elector may authorize another elector to sign on his or her behalf. Any elector signing a form on another elector's behalf shall attest to a statement that the application is made on request and by authorization of the named elector, who is unable to sign the form due to physical disability. The agent shall present this statement along with all other information required under this subdivision. The agent shall provide proof of the elector's residence under s. [6.34](#).
- (b) When each properly executed form and statement required under par. [\(a\)](#) is presented to the municipal clerk, if the elector who proposes to vote is qualified, an absentee ballot shall be issued and the name of such hospitalized elector shall be recorded by the clerk. An agent who is issued an absentee ballot under this section shall present documentation of his or her identity, provide his or her name and address, and attest to a statement that the ballot is received solely for the benefit of a named elector who is hospitalized, and the agent will promptly transmit the ballot to such person.
- (c) An application under par. [\(a\) 1.](#) may be made and a registration form under par. [\(a\) 2.](#) may be filed in person at the office of the municipal clerk not earlier than 7 days before an election and not later than 5 p.m. on the day of the election. A list of hospitalized electors applying for ballots under par. [\(a\) 1.](#) shall be made by the municipal clerk and used to check that the electors vote only once, and by absentee ballot. If the elector is registering for the election after the close of registration or if the elector registered by mail and has not voted in an election in this state, the municipal clerk shall inform the agent that proof of residence under s. [6.34](#) is required and the elector shall enclose proof of residence under s. [6.34](#) in the envelope with the ballot. The clerk shall verify that the name on any required proof of identification presented by the agent conforms to the name on the elector's application. The clerk shall then enter his or her initials on the carrier envelope indicating that the agent presented proof of identification to the clerk. The agent is not required to enter a signature on the registration list. The ballot shall be sealed by the elector and returned to the municipal clerk either by mail or by personal delivery of the agent; but if the ballot is returned on the day of the election, the agent shall make personal delivery to the polling place serving the hospitalized elector's residence before the closing hour or, in municipalities where absentee ballots are canvassed under s. [7.52](#), to the municipal clerk no later than 8 p.m. on election day.



# Wisconsin Elections Commission

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**DATE:** For the March 27, 2020 Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe, Administrator  
Wisconsin Elections Commission

**SUBJECT:** Absentee Witness Signature Requirement

Over the last week WEC staff and clerks have been contacted by many voters who are concerned about how they will fulfill the absentee ballot witness requirement when voting by mail. Below please find an outline of the requirement, concerns considered, and a proposed process developed in consultation with a public health official.

## Overview

When voting an absentee ballot by mail each voter must have someone ‘witness’ their return envelope before they mail their ballot back for counting. The witness can be anyone of the voter’s choosing, but they need to be an adult, U.S. citizen. The witness provides their signature and address on the return, certification envelope. This process serves as verification that the voter who requested the ballot is the person who actually received and voted the ballot.

## Issue

Voters who are quarantined or self-isolating due to COVID-19 are reporting concern over having someone witness their ballot. Concerns range from finding someone available to serve in this role to concern over quarantined voters having contact with other citizens in order to meet this requirement.

## Current Guidance

Under current law, all voters casting an absentee ballot by mail need to find a witness to observe the process of the voter marking their ballot (not observe the selections made on the ballot) and who can provide the required signature and information on the certificate envelope. There are no exemptions in the law for the witness requirement. All voters, including regular voters, indefinitely confined voters, and military and overseas voters must provide a witness signature.

Where direct interaction is being avoided due to COVID-19, we have suggested that a family member, friend or neighbor may watch the voter mark their ballot through a window or other physical barrier. Other options for witnesses in these situations include, mail delivery persons, grocery or food delivery persons, and medical professionals. As always, spouses or roommates can always witness each other’s ballots. We have also said this process can be done via video chat like Skype or Facetime with the ballot left outside of the door or in a mailbox for the witness to sign and provide their address after the fact. The ballot could even be mailed to the witness (who observed by video chat) after it is marked and sealed in the envelope so they can sign it.

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## **Process Developed with Public Health Official Guidance**

WEC staff worked with a public health official to conceptualize a process for voters to safely achieve the witness signature requirement for their absentee ballot. These steps assume the voter is self-isolating or quarantined. Many of these processes are also outlined in the hospitalized elector memo. The recommended process follows these steps:

1. Voter receives their absentee ballot by mail.
2. Before retrieving their ballot, the voter should wash or sanitize their hands and take extra care not to cough on balloting materials.
3. The voter opens their absentee materials envelope and places the certificate envelope outside their door, in a mailbox, etc. where a person who is providing supplies or services can access it. If possible, the voter should put the certificate envelope and leave it untouched for 24 hours before the witness handles it.
4. When someone arrives to provide the voter with supplies or services, they ask them to be a witness for their ballot. The witness should be prepared to watch the voter mark their ballot through a window or by video chat.
5. Before the voter marks their ballot and before the witness signs the certificate, they should both wash or sanitize their hands and take extra care not to cough on ballot materials.
6. The voter marks their ballot in view of the witness, but with a physical barrier between them (or by video chat).
7. The witness signs the absentee certificate envelope and provides their required information. The witness then leaves the signed certificate on the door step, in a mailbox, etc. for the voter to retrieve.
8. The voter washes or sanitizes their hands and then retrieves the signed certificate envelope.
9. The voter takes extra care not to cough on balloting materials and places the marked ballot into the envelope. The voter signs and completes the required fields on the certificate envelope.
10. The voter mails the marked ballot and completed certificate envelope.
11. By the time the clerk receives the ballot any potential contamination will be degraded, and the clerk and poll worker should follow their instructions for processing ballots.

## **Conclusion**

All voters are required to meet the absentee ballot witness requirement.<sup>1</sup> There are options to conduct a safe witness transaction using a physical barrier, such as a door, or an electronic witness by using technology such as video chat.

## **6.87(4)(b)1 Witness Requirement Statute**

The absent elector, in the presence of the witness, shall mark the ballot in a manner that will not disclose how the elector's vote is cast. The elector shall then, still in the presence of the witness, fold the ballots so each is separate and so that the elector conceals the markings thereon and deposit them in the proper envelope. If a consolidated ballot under s. [5.655](#) is used, the elector shall fold the ballot so that the elector conceals the markings thereon and deposit the ballot in the proper envelope. If proof of residence under s. [6.34](#) is required and the document enclosed by the elector under this subdivision does not constitute proof of residence under s. [6.34](#), the elector shall also enclose proof of residence under s. [6.34](#) in the envelope. Except as provided in s. [6.34 \(2m\)](#), proof of residence is required if the elector is not a military elector or an overseas elector and the elector registered by mail

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<sup>1</sup> The absentee ballot witness requirement during the COVID-10 pandemic is currently being challenged in federal court, *Gear, et al. v. Knudson, et al.*, 3:20-cv-00278, (Western District of Wisconsin).

or by electronic application and has not voted in an election in this state. If the elector requested a ballot by means of facsimile transmission or electronic mail under s. [6.86 \(1\) \(ac\)](#), the elector shall enclose in the envelope a copy of the request which bears an original signature of the elector. The elector may receive assistance under sub. [\(5\)](#). The return envelope shall then be sealed. The witness may not be a candidate. The envelope shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots. If the envelope is mailed from a location outside the United States, the elector shall affix sufficient postage unless the ballot qualifies for delivery free of postage under federal law. Failure to return an unused ballot in a primary does not invalidate the ballot on which the elector's votes are cast. Return of more than one marked ballot in a primary or return of a ballot prepared under s. [5.655](#) or a ballot used with an electronic voting system in a primary which is marked for candidates of more than one party invalidates all votes cast by the elector for candidates in the primary.