

Procedures and Questions for the April 7, 2020 Election

Federal Court Decisions

2 Remaining Issues in Judge Conley's Order

1. Absentee Request Deadline extended to 4/3

2. Absentee Return Deadline extended to 4/13 at 4 pm (**updated after U.S. Supreme Court decision on 4/6/2020**)

Third Issue from Judge Conley's Order

Witness Requirement

Litigation Update:

April 2: Judge Conley originally ordered that absentee ballots returned without required witness information should be counted if the voter provided a statement that they could not find a witness despite a reasonable effort.

April 3: The 7th Circuit Court of Appeals ruled that all absentee ballots must have the required witness information in order to be counted for the April 7, 2020 election.

Result: Each absentee ballot for this election must have the required witness signature and address in order to be counted, including ballots that were returned when Judge Conley's original order was in effect.

Absentee Requests

Judge Conley's order:

Page 5

(2) enjoin the enforcement of the requirement under Wis. Stat. § 6.86(1)(b) that absentee ballot requests must be received by April 2, 2020, and extend the deadline for receipt of absentee ballot requests by mail, fax or email (and if deemed administratively feasible in the sole discretion of the WEC Administrator, online) to 5:00 p.m. on April 3, 2020

Absentee Requests

Details

- The deadline for absentee requests for regular and overseas voters was supposed to be Thursday April 2 at 5:00 pm
- A federal Judge (Judge Conley) issued an order yesterday that extended the absentee ballot request deadline to April 3 at 5pm. All complete requests received by 5pm on Friday April 3 will be honored.
- Voters can make these requests by email, fax or mail, or through the MyVote WI website by making a calendar year request on the website.
- The calendar year request option will allow voters to still make absentee requests through MyVote, but they need to make those requests as calendar year requests in order to have their request be applied to the April 7 election.
- MyVote will not display the April 7 election in the list of available elections, but voters will still be able to make calendar year requests that will allow them to get a ballot for the April 7, 2020 election.

Absentee Requests

FAQs

1. Do I have to honor requests received by mail, email, fax or online (via MyVote) on April 3 if they are received by 5 pm?
Yes, Judge Conley's order specified that these requests must be honored if they are received by 5pm.
2. If I receive a request for an absentee ballot after 5pm on Friday April 3, should I honor that request?
Only if that request came from a military voter. Military voters are allowed to make requests until 5pm on election day for federal elections. Any requests received after 5pm on April 3 should be reviewed to ensure they are not from a military elector.
3. Will the calendar year requests received from voters on Friday April 3 who have photo ID on file create an application record in WisVote for the April 7 election?

Yes, the calendar year request will be created and an application record under the April 7 election will also be created.

Absentee Requests

FAQs

4. What about requests made by the voters without photo ID on file?

Those requests should be reviewed to make sure the photo ID is compliant. If so, you can enter those requests into WisVote as calendar year requests. Be sure to enter calendar year requests under the Absentee Application tile.

5. What if I receive a request that is incomplete or is not submitted with a valid photo ID?

Clerks should make an effort to contact the voter to obtain the missing information if time and resources allow. Incomplete requests, requests submitted without a valid photo ID, and requests received after the deadline should not be honored.

6. Will MyVote not allow requests after the 5pm deadline on Friday?

MyVote will still allow calendar year requests but those requests should not be honored for the April 7 election, unless they are from a military voter. The calendar year requests from regular voters will not create application records in WisVote for those voters.

Extended Absentee Return Timeline

Judge Conley's Order:

Page 5

(1) enjoin the enforcement of the requirement under Wis. Stat. § 6.87(6) that absentee ballots must be received by 8:00 p.m. on election day to be counted and extend the deadline for receipt of absentee ballots to 4:00 p.m. on April 13, 2020

Clarifying Order:

Defendants and any inspector appointed under Wis. Stat. § 7.30(a)(b) are ENJOINED from releasing any unofficial results until April 13, 2020, at 4:00 p.m. or as soon thereafter as votes can be tabulated.

Extended Absentee Return Timeline

Major Impacts:

1. Absentee Return Deadline
2. Election night reporting requirements
3. Canvass procedures and timeline
4. Voting equipment considerations
5. Routing of materials

Extended Absentee Return Timeline

Absentee Return Deadline

- Ballots must be accepted for counting until 4pm on Monday April 13, 2020
- **The U.S. Supreme Court ruled on 4/6/2020 that a postmark on or before April 7, 2020 is required for a ballot to be counted.**
- The following ballots cannot be counted:
 - No postmark and received after 8:00 PM on 4/7/2020
 - Postmarked after 4/7/2020, even if returned by 4/13 at 4:00 PM
 - Hand delivery after 4/7/2020

Extended Absentee Return Timeline

Election Night Reporting Requirements

- Election night reporting and posting requirements are suspended for this election
- Results should not be transmitted (modem) or provided (call in sheets, memory device upload, CRS) to the counties until after 4pm on 4/13
- No results should be posted or made public prior to the 4/13 deadline

Extended Absentee Return Timeline

Canvass Procedures and Timeline

Municipal

- Municipal Boards of Canvassers (MBOC) should complete their normal election day procedures on election night
- Hand-count ballots should not be counted until after 4:00 PM on 4/13/2020
- Absentee ballots received by election day should be processed but not tallied
- Results should not be publicly announced at the polling place on election night
- If you cannot finish counting absentee ballots on election night you may adjourn until the next day, but you should publish an updated meeting notice
- MBOCs will have to reconvene after 4pm on 4/13 to canvass election day ballots and any late arriving absentee ballots
- MBOC's may convene after the counting of Election Day ballots to tally subsequent absentee ballots in the interim before 4/13.
- Some voting equipment may be used for this purpose
- Ballots with missing witness information should be held until 4/13 for processing as the missing information may be provided by the voter separately

Extended Absentee Return Timeline

Voting Equipment Considerations

- DREs such as the AVS Edge, should be powered down and should not produce a results tape on election night. The tape should be generated during the canvass process on 4/13/2020.
- Any results tapes inadvertently generated on election night must be stored in an envelope or container and sealed with a tamper evident seal. The clerk shall keep a log of any serial numbers from seals used for this purpose.
- The court order forbids the release of any results prior to 4pm on 4/13 so these results should not be made public.
- Newer optical scan tabulators (DS200, ICE, etc.) have the ability to reopen polls and continue to process ballots after election day.
- No election results should be released or transmitted to the county on election day.

Extended Absentee Return Timeline

County Canvass Procedures and Timeline

County

- The timeline for counties to canvass will most likely be impacted
- You may have to convene on Tuesday 4/14 by 9 am, but adjourn and reconvene to finish the canvass after all results have been provided and aggregated

Questions?

More information and details will be forthcoming

Thanks for your patience