



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: April 5, 2020

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

FROM: Meagan Wolfe, Administrator
Wisconsin Elections Commission

SUBJECT: Updated Absentee Witness Signature Requirement Guidance

In the last few days, multiple court decisions have addressed the witness requirement for absentee voters who wish to vote by mail for the April 7, 2020 election. The end result of those decisions is that the witness requirement remains in effect for the Spring Election. This memorandum provides an update on the court decisions and reviews frequently asked questions we have received regarding the witness requirement, correcting a defective certificate envelope, and spoiling ballots.

Timeline and Status

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 for approximately 24 hours.

Frequently Asked Questions

1. Does every absentee ballot need a witness signature and witness address?

Yes, a witness signature and witness address are required from all voters on the absentee ballot return envelope. A federal court ruling temporarily suspended this requirement, but it was reinstated on appeal.

2. Can I show up at my polling place on election day and vote a new ballot if I returned my absentee ballot without the required witness information?

No, an absentee ballot cannot be spoiled at the polls and a new ballot issued. Wisconsin state law provides "An elector who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on election day." Wis Stat. § 6.86(6).

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

2011 Act 227 changed the law so it was no longer an option to “beat your ballot” to the polls. Prior to that legislation, an absentee voter could obtain a new ballot at the polls if their absentee ballot had not been processed and a voter number had not been issued.

3. Can I show up at my polling place on election day with my witness to provide the missing required witness information?

Missing information on the absentee ballot certificate envelope can be provided so that an absentee ballot may be counted. However, the voter must be accompanied by the original witness when providing this information. The absentee voter would need to appear at the polls with the original witness who did not sign at the time the ballot was marked. The witness could then provide the missing signature and/or address information. A returned absentee ballot cannot be spoiled, and a new ballot cannot be issued at the polls. (See Election Administration Manual, page 106). The witness signature must be provided by 8 PM on election day or the ballot will be rejected.

4. What if I submitted my ballot without witness information while the requirement was suspended?

The ruling from the 7th Circuit Court of Appeals that was issued on April 3, 2020 applies to all ballots cast for this election, even those returned when the decision from Judge Conley was in effect.

5. What if a clerk sent out ballots after the original court order with instructions about the witness substitution that has since been eliminated?

They should make their best effort to contact those voters to inform them that the witness requirement is back in effect.

6. What if a clerk has received a ballot back from a voter with required witness information missing?

They should make their best effort to contact the voter to advise them of their options to provide the missing information. If a witness signature is missing the voter can appear with the original witness in the clerk’s office or polling place on election day to provide the signature.

7. What are the options for a voter to provide missing witness information on the absentee ballot return envelope?

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.

By Mail

If the voter wants the original ballot mailed back to them, 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, seal the ballot in the new certificate envelope, and obtain a witness signature. Corrected certificate envelopes must mail the ballot back with a postmark no later than April 7 or hand deliver the ballot to their polling place or clerk’s office.

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.

At Polls or Central Count on Election Day

If the voter appears to correct 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.

Please contact us at elections@wi.gov or by phone at (608) 261-2028 with any questions you may have.