



Wisconsin Elections Commission

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DATE: April 11, 2020

TO: All Wisconsin Local Election Officials

FROM: Meagan Wolfe
Administrator

SUBJECT: Postmark Issues and Processing Absentee Ballots

I. April 10, 2020 Commission Action

This memorandum is a follow-up to two April 8, 2020 communications from the Wisconsin Elections Commission (WEC) regarding issues related to absentee ballot postmarks for the Spring Election and processing those ballots in WisVote. In short, the WEC directs the boards of canvassers to count ballots which are returned in envelopes postmarked on or before April 7, 2020 and delivered to the municipal clerk by 4:00 p.m. on April 13, 2020. This memorandum does not alter the WisVote treatment of these ballots but simply incorporates the earlier guidance for ease of reference.

In response to the WEC's April 8th communications, municipal clerks submitted hundreds of examples of absentee ballot envelopes with unclear postmarks. WEC staff appreciates the prompt response of clerks who submitted those examples in order to assist the Commission in evaluating specific factual scenarios and attempting to develop further guidance for local election officials.

As noted in the previous communications, on April 6, 2020 the U.S. Supreme Court ruled that, in order to be counted, all mailed-in absentee ballots must be "postmarked by election day, April 7, 2020, and received by April 13, 2020 at 4:00 p.m." The Elections Commission met the afternoon of April 10, 2020 to discuss how to interpret the Supreme Court's directive in light of the various examples of envelopes submitted by clerks. The Commission discussed whether or not the Court decision provided specific direction regarding postmarks that were missing, illegible or that did not include a date, and whether the Court's directive was satisfied if an envelope was in the possession of the U.S. Postal Service by April 7, 2020 even if USPS did not apply a postmark.

Each municipality must determine whether the ballot was postmarked timely. The Commission passed a motion reaffirming that all ballots with a postmark of April 7th or earlier are to be counted, assuming they are otherwise valid.

Wisconsin Elections Commissioners

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The Commission also passed the following motion:

If elections commission staff can obtain a signed statement from a Postal Service authority that states that the stamp that reads “APR 2020” was only used on April 7th and it indicates it was received on April 7th those ballots shall be counted.

This motion was passed following discussion that a postmark indicating “APR 2020” may have been used by USPS when processing mail on Election Day, April 7th. WEC staff is attempting to secure the requested statement from the U.S. Postal Service and will notify local election officials if that statement is obtained.

II. Previous Guidance and Additional Background

In our communications of April 8th, the WEC identified the following three categories of absentee ballots:

- 1) Ballots that contain a postmark of April 7, 2020 or earlier and are received by 4:00 p.m. on April 13, 2020 or that were delivered by any means to the polling place or central count location by 8:00 p.m. on Election Night. These ballots are to be counted if otherwise valid. They are recorded in WisVote as “Returned.”
- 2) Ballots that are received after 4:00 p.m. April 13, 2020 or that were hand-delivered after 8:00 p.m. on Election Night. These ballots are to be rejected and they are recorded in WisVote as “Returned After Deadline.”
- 3) Ballots returned after April 7, 2020 and before 4 p.m. on April 13, 2020 without a postmark, with an illegible postmark, with a postmark that does not contain a date, or with a postmark after April 7, 2020. The WEC directed clerks to hold those ballots until April 13, 2020 and indicated that additional guidance would be forthcoming. The WEC also advised that these ballots are to be recorded in WisVote as “Returned to be Rejected.” In WisVote, clerks must also identify one of three explanation types for these ballots:
 - a. Certification Insufficient;
 - b. Certificate Envelope Compromised.
 - c. Postmarked After Election Day (includes all postmark issues).

The WisVote designation of these ballots will be changed to “Returned” or “Deactivated” depending upon decisions made by the MBOC based on the guidance in section III of this memorandum. If the clerk does not record any further action by the MBOC, these ballots will automatically reclassify in WisVote as “Deactivated” when the election closed checkpoint is checked.

During its meeting of April 10th, the WEC considered additional guidance based upon its review of the Supreme Court’s decision in light of the sample envelopes submitted by municipal clerks

and their explanations of local mailing procedures as well as the guidelines of the USPS. The USPS is outlined here for the benefit of municipal canvass boards.

The USPS Handbook PO-4008 Area Mail Processing Guidelines state:

A postmark is an official Postal Service™ imprint applied in black ink on the address side of a stamped mailpiece. A postmark indicates the location and date the Postal Service accepted custody of a mailpiece, and it cancels affixed postage. . . . Postmarks are not required for mailings bearing a permit, meter, or precanceled stamp for postage, nor to pieces with an indicia applied by various postage evidencing systems.

The same guidelines further state:

The postmarking process uses the following three basic methods of imprinting:

1. **Automated:** Advanced facer canceller systems used by processing distribution centers cancel letters quickly. These machines are equipped with biohazard detection systems so letters postmarked by automation benefit from added safety measures.
2. **Mechanized:** A variety of older devices apply postmarks to flat-size mailpieces and to philatelic pieces.
3. **Manual:** Hand-stamp devices are used by Postal Service employees for local cancellation or philatelic requests.

A “local” postmark shows the full name of the Post Office, a two-letter state abbreviation, ZIP Code™, and date of mailing. Because the Postal Service is sensitive to the importance some customers place upon these postmarks, each Post Office is required to make a local postmark available. Lobby drops should be designated for this purpose with clear signage signifying its use.

These guidelines illustrate that there are several methods of completing the “postmarking process.” As indicated by this excerpt and confirmed by numerous local election officials, a postmark date is not uniformly applied during these processes and may look different in various jurisdictions.

III. Processing Ballots in “Hold” Categories

When determining sufficiency of ballots in the “Hold” category, the canvass board determines that the ballot was postmarked by April 7 and received by April 13 then it may be counted. If the canvass board determines that the ballot was postmarked after April 7 or received after 4pm on April 13, then the ballot cannot be counted. For ambiguous marks, the board of canvas will need to decide if the postmark meets the standards established by the Supreme Court. If the canvass board cannot determine that a ballot was postmarked by election day (or received by 8pm on election day) then the ballot should not be counted.

Wisconsin Statutes specifically provide boards of canvassers the authority to count ballots. See Wis. Stats. § 7.51, 7.52, 7.53. The WEC recommends that canvass boards discuss and determine these standards at the beginning of their meetings. The standards that are adopted must be applied consistently throughout the canvass. Ballot envelopes that are deemed to not meet the Supreme Court standard should not be opened and those ballots should be rejected.

Municipal clerks must remember to change the designation in WisVote of any ballot in the “Hold” category which the canvass board decides should be counted. No additional action regarding the ballot status is required in WisVote for a ballot in the “Hold” category which is rejected due to the envelope failing to meet the Supreme Court standards.

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