

# WISCONSIN ELECTIONS COMMISSION

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## MEMORANDUM

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

**FROM:** Meagan Wolfe  
Interim Administrator

**DATE:** November 8, 2108

**SUBJECT:** Thank You and Post-Election Matters

First and foremost, I want to thank all of you and your staffs and election inspectors for your outstanding accomplishment in conducting the 2018 General Election in a professional, transparent, fair and accurate manner. As with every election cycle, the 2018 elections brought changes to systems and processes, and we have asked a lot of local election officials over the past year. The added focus on election security required additional training, tabletop exercises, and multifactor authentication for WisVote. While we assisted clerks in troubleshooting isolated issues on Election Day, overall the election proceeded smoothly, especially considering the high turnout. Even where we heard about potential ballot shortages, counties and municipalities were prepared to make additional ballots available shortly.

In response to inquiries we have received from clerks, I would like to provide some information related to a couple of post-election issues.

1. Provisional and military ballots: A reminder that electors who completed a provisional ballot may provide necessary documentation to the municipal clerk no later than Friday, November 9, 2018 at 4 p.m. If documentation is submitted prior to the deadline, the municipal board of canvassers must meet to determine whether the provisional ballot shall be counted. If no provisional ballots are remedied after the election, the municipal board of canvassers is not required to reconvene. Please remember that public notice is required to reconvene the board of canvassers.

Some news reports have implied that ballots of military electors may be counted if they are received after Election Day. While that was formerly true, a legislative change in 2016 required all absentee ballots to be delivered to the polling place by 8 p.m. on Election Day. To clarify, therefore, there is no exception to that deadline for ballots returned by military electors.

2. Potential recounts: There was significant attention in the media on Election Night regarding the possibility of statewide recounts in the contests for Governor and Attorney General. Based upon the unofficial results and public statements of the candidates involved, we do not expect to receive a recount petition for any statewide contest. However, please be aware of whether the results in a legislative or county-level contest may qualify for a recount in your jurisdiction. We recommend that county clerks reach out to their municipal clerks if there is a contest that appears to be headed for a recount to anticipate potential recount dates and tasks.

Under current law, only an aggrieved candidate, defined as a candidate for an office whose total votes were within 1 percent 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. There is no cost to the losing candidate if the difference between the leading candidate is 0.25 percent or less. If the difference is more than 0.25 percent, the filing officer must estimate the cost, which must be paid before the recount begins. In a referendum election, any elector who voted in the election may request a recount.

The deadline for counties to provide certified results of state and federal contests to the WEC is Tuesday, November 20. The statutory deadline for the Commission to certify those results is December 1, but because that date is a Saturday, the deadline is delayed to Monday, December 3. The deadline for filing a recount petition is 5 p.m. on the third business day after the Elections Commission receives the last statement from a county board of canvassers. If the last county canvass is submitted on November 20, the deadline for recount petitions for state or federal offices will be Monday, November 26 due to Thanksgiving holiday. For local or county contests, the deadline for requesting a recount is 5 p.m. on the third business day following the last meeting of the municipal or county board of canvassers determining the election for the office.

Much more information about recount procedures is available here:  
<https://elections.wi.gov/manuals/recount>

3. Potential Special Election for State Superintendent of Public Instruction Vacancy: We have received inquiries from clerks regarding a potential statewide special election in 2019 for the office of Superintendent of Public Instruction. Assuming that the official results confirm the election of Tony Evers as Governor, a vacancy will be created in the office of Superintendent of Public Instruction. The current term expires in 2021 and a vacancy would not occur until Superintendent Evers resigns from the position, either upon taking office as Governor or at an earlier date.

Wis. Stat. § 17.19(4) provides that a vacancy in the office of State Superintendent is filled by appointment by the Governor. The Governor also determines whether the appointee serves for the remainder of the term or if a successor will be elected at a special election.

If Superintendent Evers resigns his current office upon being inaugurated as Governor on January 7, 2019, there are several options for filling the vacancy. First, the Governor may appoint a successor to serve the remainder of the term. Second, the Governor could order a special election to be held on April 30, 2018, so that if a special primary is required, it may be held concurrent with the Spring Election on April 2, 2019. In that case, the election must be ordered between February 12 – 27, 2019. Third, a special election can be ordered for a later date that does not coincide with a regular election date. Fourth, a special election can be ordered in late 2019 to be held concurrent with the Spring Election in 2020.

If you have questions regarding these matters, please contact the Help Desk at 608-261-2028 or [elections@wi.gov](mailto:elections@wi.gov). Once again, thank you for ensuring a fair and secure election in Wisconsin on Tuesday, and I hope you are able to enjoy some relaxation time after completing your election wrap-up.