

State of Wisconsin \ Government Accountability Board

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KEVIN J. KENNEDY
Director and General Counsel

DATE: April 8, 2016

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

FROM: Michael Haas, Elections Division Administrator
David Buerger, Elections Specialist

SUBJECT: Seventeen Year Olds Voting at the April 5, 2016 Election

Leading up to the April 5, 2016 Spring Election and Presidential Preference Vote, Government Accountability Board staff noted an increasing number of inquiries regarding the eligibility of seventeen year olds who would be eighteen by the November General Election to participate in the Presidential Preference Vote. These inquiries appeared to be driven by various sources reporting that Wisconsin had recently extended the right to vote to seventeen year olds in these circumstances. These sources are inaccurate. Wisconsin Statute § 6.05 clearly states:

Election day age determines elector's rights. Any person who will be 18 years old on or before election day is entitled to vote if the person complies with this chapter.

On Election Day, a number of seventeen year olds appeared at polling places across the state to vote in the Presidential Preference Vote. Most of these seventeen year olds were properly turned away without voting. It has come to our attention however, that several seventeen year olds were issued a ballot despite not being eighteen years old as of Election Day. This memorandum is to address some of the questions that have arisen regarding the impact of these improper votes on the election results, how to handle these registrations, and whether the incident should be referred to the county district attorney.

Canvass of the Spring Election and Presidential Preference

While it is undisputable that these seventeen year olds should not have been issued a ballot, there is no good solution once the illegitimate ballot has entered into the pool of properly issued ballots. Government Accountability Board policy has been to avoid using the draw down process when the source of a discrepancy between eligible voters and voted ballots can be identified. As such, if you are aware of any ballots from seventeen year old voters being counted, the proper procedure is to document the error in the minutes of the Board of Canvassers for potential review in a recount. The local Boards of Canvassers who are aware of these situations should NOT reduce the number of voters or remove ballots unless the ballot of the seventeen year old voter can be clearly identified (e.g., it was challenged on Election Day).

WisVote Process

As a ballot was cast by this ineligible voter, clerks must record this vote in the WisVote system. Clerks should be able to enter Election Day registrations for seventeen year old voters and record the vote like any other voter. The WisVote system is configured to allow these voters to register, but their names will not appear on the poll list until they have turned eighteen.

Referral of Election Violations

Wisconsin Statute § 7.15(1)(g) requires municipal clerks to report suspected election frauds, irregularities or violations of which the clerk has knowledge to the district attorney for the county where the suspected activity occurs and to the Board. Board staff is planning to run a query of the WisVote system after the deadline for entry of Election Day registrations to identify any seventeen year olds who were improperly allowed to cast a ballot. At that time, we will be contacting each municipality with identified seventeen year old voters and asking the clerk to prepare a referral to the district attorney if they have not already done so. If you are presently aware of any seventeen year old voters, please make a copy of the voter registration, the page of the poll book for that voter, and the absentee application (if any), and any other relevant documentation for immediate referral to the district attorney.

If you have any questions with respect to this memorandum, please contact the G.A.B. Help Desk at (608) 261-2028 or gabhelpdesk@wi.gov.