



# Wisconsin Elections Commission

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**DATE:** July 2, 2020

**TO:** All Wisconsin Election Officials

**FROM:** Meagan Wolfe  
Administrator

**SUBJECT:** UPDATED at 4:45 PM on July 2, 2020: 7th Circuit Court Ruling in One Wisconsin Institute Case NOT YET IN EFFECT

On June 30, 2020 WEC sent a clerk communication and RAVE alert to clerks regarding the 7<sup>th</sup> Circuit Court of Appeals ruling. We have since received updated legal advice that this order is not yet in effect. The Wisconsin Department of Justice has updated their guidance and advised us that the Court of Appeal's ruling is not in effect until the Court issues a mandate. Their determination was made after further analysis of the complex nature of the ruling and of additional rules that dictate which Court has jurisdiction in this situation. It is expected that the mandate will be issued on or around July 21, 2020, but there is no guarantee. Until the mandate is issued, the injunction issued by the Western District Court remains in effect.

We apologize for the confusion this causes. Please be prepared for the changes outlined by the Court of Appeals to be restored once the Court issues their mandate on or around July 21, 2020.

## What does this mean?

While further analysis is still being conducted, it means that the guidance WEC provided to clerks on June 30 is not yet in effect, but will be valid once the court's mandate is issued. Until the Court mandate is issued, please revert back to previous court orders in the area of in-person absentee, 10-day residency, and the ability to issue electronic absentee ballots.

**In-Person Absentee Voting:** Until the Court issues a mandate, jurisdictions may choose to offer in-person absentee voting prior to the opening of the July 28, 2020 window identified in our previous guidance. This is at the discretion of the municipality and is not mandatory. Municipalities can choose if, when, how many locations, and for how many hours they wish to offer in-person absentee. If the Court has issued its mandate before July 28, in-person absentee will again need to cease, and cannot resume until July 28. It is expected that the mandate will be issued on or around July 21. Municipalities do not need to offer in-person absentee opportunities prior to the mandate, but they may. Type E notices should reflect your in-person absentee availability.

**Voter Residency:** Until the Court issues its mandate, the residency requirement for voter registration is 10 days. Until a mandate is issued you do not need to modify the 10-day residency requirement to 28 days on registrations, absentee ballot certificates, or other documents. The residency requirement remains 10 days for the time being. Once the mandate is issued, the residency requirement will be 28 days. Again, until you hear otherwise, the residency requirement is 10 days. The online voter registration tool through MyVote.wi.gov will

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

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also be updated to reflect 10 days residency until the mandate is issued.

**Electronic Ballot Delivery:** Until the Court issues its mandate, clerks may choose to send regular voters their ballots by fax or email. Like in-person absentee, clerks have the discretion to decide whether or not they want to send ballots electronically for the August 11 election. Once the mandate is issued on or around July 21, ballots can only be sent by electronic delivery to military and overseas voters.

We appreciate your attention to these changes and your patience as we develop guidance regarding the Court decision's impact and while we work with Wisconsin Department of Justice to understand the timeline of the decision. We will be providing updated information, training materials and reference documents to assist your efforts in preparation for the remainder of the 2020 election cycle. Once the mandate is in effect, we will provide detailed information on how to proceed.

Please contact us at [elections@wi.gov](mailto:elections@wi.gov) or call us at (608)261-2028 with any questions you may have.