

# Election Administration Manual

for  
Wisconsin Municipal Clerks



Wisconsin Elections  
Commission

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## Table of Contents

<b>General Information</b>	<b>1-5</b>
Table of Contents	1
Introduction	5
<b>Candidates</b>	<b>7-18</b>
Qualifications for Office	7
Ballot Access Procedure	8
Write-In Candidates	14
Notification of Noncandidacy	14
Filing Officers & Recordkeeping	15
Frequently Asked Questions	16
<b>Notices</b>	<b>19-29</b>
Type A – Notice of Election	19
Type B – Notice of Sample Ballot & Voting Instructions	21
Type C – Notice of Referendum	23
Type D – Notice of Hours & Locations of Polling Places	24
Type E – Notice of Absentee Voting	25
Summary of Publishing Dates	27
Procedures (Publishing and Posting)	27
Frequently Asked Questions	29
<b>Ballots</b>	<b>31-42</b>
Procedures	31
Ballot Format	35
Federal Write-In Ballots for Military & Overseas Electors	40
Referendum Ballots	40
Sample Ballots	41
Frequently Asked Questions	42
<b>Electors</b>	<b>43-112</b>
Voter Qualifications	43
Voter Registration	48
Completing the Voter Registration Application	53
Proof of Residence	60
Electronic Proof of Residence	63
Military and Overseas Voter Registration Requirements	64
Confidential Electors	66

Absentee Voting	69
Absentee Ballot Certificate Envelopes	72
Proof of Identification	79
Correcting Defective Absentee Certificate Envelopes	88
Spoiling and Replacement of Absentee Ballots	92
Special Categories of Absentee Voters	94
Indefinitely Confined Electors	94
Military and Overseas Electors	95
Hospitalized Electors	99
Sequestered Jurors	101
Occupants of Residential Care Facilities	101
Alternate Absentee Ballot Site	102
Absentee Ballot Request Deadlines	103
Provisional Voting	104
Frequently Asked Questions	111
<b>Election Officials</b>	<b>113-129</b>
Municipal Clerks	113
Election Inspectors	114
Chief Election Inspectors	121
High School Student Election Inspectors	123
Election Registration Officials (EROs)	124
Special Voting Deputies (SVDs)	125
Greeters & Tabulators	126
Oaths of Office	127
Removing Election Officials	128
Frequently Asked Questions	128
<b>Voting Equipment</b>	<b>131-144</b>
Voting Equipment in Wisconsin	131
Voting Equipment Certification and Approval	131
Pre-Election Equipment Testing	134
Security Procedures for Electronic Voting Systems	137
Post-Election Audit	140
Frequently Asked Questions	143
<b>Accessibility</b>	<b>145-149</b>
Polling Place Accessibility	145
Accessible Voting Equipment	146
Training Election Inspectors – Accessibility	147

Accessibility Contacts & Additional Resources	148
Common Sense & Common Courtesy Points	149
<b>Emergency Preparedness and Contingency Planning</b>	<b>151-153</b>
Procedures	151
Frequently Asked Questions	153
<b>Polling Places &amp; Supplies</b>	<b>155-167</b>
Polling Place Establishment	155
Equipping and Supplying the Polling Place	155
Frequently Asked Questions	166
Polling Place Checklist	168
<b>Election Day Issues</b>	<b>169-183</b>
Role of the Clerk on Election Day	169
Central Count Absentee Ballot Site	169
Observers	171
Voter Cell Phones and Photography in Polling Area	177
Media	177
Polling Place Accessibility Assessments	178
Electioneering	178
Challenging Voters	181
Frequently Asked Questions	182
<b>Post-Election Activities</b>	<b>185-203</b>
Composition of Municipal Board of Canvassers (MBOC)	185
Timeline for Convening the MBOC	186
Duties of Municipal Clerks	188
Processing Provisional Ballots	190
Conducting the Municipal Canvass	193
Breaking a Tie in a Municipal Contest	194
Routing Materials	195
Certificate of Election	197
Absentee Ballot List Maintenance	198
Frequently Asked Questions	200
Supplies Checklist	202
Election Materials from Each Reporting Unit Checklist	203
<b>Recounts</b>	<b>205-208</b>
Procedures	205

Frequently Asked Questions	208
<b>Recall Elections</b>	<b>209-212</b>
Procedures	209
Frequently Asked Questions	212
<b>Other Election Materials</b>	<b>213-219</b>
Cost of Elections	213
Destruction of Election Materials	216
Electronic Conversion of Election Records	218
<b>Wards, Districts, Reporting Units &amp; Annexations</b>	<b>221-229</b>
Wards and Districts	221
Reporting Units	221
Annexation	223
When Annexation Necessitates the Creation of a New Ward	223
Determining Where Annexed Electors Vote	224
Transferring Voters	225
Annexation and Polling Places	225
Notifying Governmental Units of Annexation	226
Frequently Asked Questions	228
<b>Glossary</b>	<b>231-240</b>

## INTRODUCTION

Elections in the State of Wisconsin are conducted at the local level. As a municipal clerk you are entrusted with the responsibility of ensuring fair, accessible, and transparent elections. Our job at the Wisconsin Elections Commission (WEC) is to provide you with a range of resources to support you in carrying out your duties.

Many changes have occurred in the way elections are conducted in the State of Wisconsin over the past ten years. The changes have not been easy but due to the dedication, patience, and hard work of election officials at all levels of government, we have transitioned well into the new requirements. The WEC believes local election administration in Wisconsin is better than ever and that is a testament to the efforts of Wisconsin's dedicated municipal clerk.

The *Election Administration Manual for Wisconsin Municipal Clerks* was developed to serve as a knowledge base for the array of duties required of municipal clerks. Please reference this manual frequently and make use of the other resources cited throughout the manual. And, as always, the WEC staff is here to provide answers and advice to assist you in fulfilling your obligations to protect the integrity of elections and ensure public confidence in the election process.





# CANDIDATES

## Summary

All candidates must meet certain qualification requirements and must also complete and file proper ballot access documents in order to gain a spot on the ballot. Municipal clerks serve as the filing officer for municipal offices. Therefore, the municipal clerk should keep detailed records of candidate filings and correspondence. Municipal offices are nonpartisan and are up for election on the first Tuesday in April. If a primary is required, the primary is held on the third Tuesday in February preceding the spring election.

## Qualifications for Office

All candidates must meet the residency requirements established for the office to which he or she is seeking election.

1. City Offices: A qualified elector\* of the city and residing in city at the time of election. Wis. Stat. § 62.09(2)(a).
2. Aldermanic Offices: A qualified elector\* of the city and aldermanic district and residing in the district at the time of election. Wis. Stat. § 61.09(2)(a).
3. Village Offices: A qualified elector\* of the village and residing in village at the time of election. Wis. Stat. § 61.19.
4. Town Offices: A qualified elector\* of the town at the time of taking office, except an assessor who is appointed under Wis. Stats. §§ 60.307, 60.30(2).
5. School Offices: A qualified elector\* of the school district at the time of filing a Declaration of Candidacy (EL-162). If representing an apportioned area, also a resident of that area at the time of taking office. Wis. Stat. § 120.06(2), (6)(b) 2.

\*A qualified elector is defined in Wis. Stat. § 6.02, as a U.S. citizen, 18 years of age or older, who has resided in the election district for at least 28 consecutive

days before an election at which he or she offers to vote and who is not disqualified by virtue of one or more of the impediments described in Wis. Stat. § 6.03.

**Note:** No person may hold any state or local elected office in Wisconsin if the person has been convicted of a felony in any court in the United States unless the person has been pardoned of the conviction. Additionally, no person may have his or her name placed on the ballot for any state or local elective office in Wisconsin if the person has been convicted of a felony in any court in the United States unless the person has been pardoned of the conviction (Wis. Const. Art. XIII, § 3(3)). Any person who falsely signs this statement could be convicted of a violation of Wis. Stat. § 12.13(3)(a), (am).

### Ballot Access Procedure

All candidates, regardless of office sought, must complete ballot access documents. Most candidates are nominated for office through the filing of nomination papers. However, some towns and villages use the caucus procedure to nominate candidates for town or village office. All candidates, regardless of the nomination procedure used, must file two documents:

1. Campaign Finance Registration Statement (CF-1, CF-1L). Wis. Stat. § 11.0102(1).
2. Declaration of Candidacy (EL-162). Wis. Stat. § 8.21, Art. XIII, Sec. 3, Wis. Const.

If a candidate fails to file one or both of these forms with the municipal clerk by the deadline for filing nomination papers or by 5:00 p.m. on the fifth day after a candidate is sent notification of nomination at a caucus, the clerk cannot place the candidate's name on the ballot. Wis. Stat. § 8.05 (1)(j). If the fifth day falls on a Sunday or holiday, the deadline is extended to the next business day.

Municipal judge candidates also need to submit a *Statement of Economic Interests* to the Wisconsin Ethics Commission in order to meet ballot access requirements. Ballot Access Checklists (ELIS-6, ELIS-7, ELIS-8) for municipal candidates indicate this requirement and the appropriate filing deadline. Forms and instructions are available from the Wisconsin Ethics Commission's website (<http://ethics.wi.gov>) or by contacting the Wisconsin Ethics Commission at (608) 266-8123.

Additionally, some municipalities may have an ethics ordinance under Wis. Stat. § 19.59(3)(b), requiring a *Statement of Economic Interests* to be filed with the local filing officer in order to achieve ballot status. If you are unsure whether your municipality has an ethics statement requirement, you should check with your municipal attorney. If the statement is not filed by the deadline, the candidate's name will not appear on the ballot.

Clerks should make “candidate packets” available for all prospective municipal candidates. All ballot access forms and checklists are available on the respective Wisconsin Elections Commission and Wisconsin Ethics Commission websites. Candidate packets should include the following forms:

1. [Campaign Finance Registration Statement \(CF-1, CF-1L\)](#)
  - a. The CF-1 is used for recall and referendum committees.
  - b. The CF-1L is used for candidate committees.
2. [Declaration of Candidacy \(EL-162\)](#).
3. [Nomination Paper for Nonpartisan Office \(EL-169\)](#), if required.
4. Appropriate Ballot Access and Campaign Finance Checklists (ELIS-[6](#), ELIS-[7](#), ELIS-[8](#)).

Wis. Stats. §§ 8.1, 8.21.

*Campaign Finance Registration Statement (CF-1, CF-1L)*

For information about the Campaign Finance Registration Statement, please contact the Wisconsin Ethics Commission: [ethics@wisconsin.gov](mailto:ethics@wisconsin.gov).

### *Declaration of Candidacy (EL-162)*

The [Declaration of Candidacy \(EL-162\)](#) may be filed at any time, but not later than the deadline for filing nomination papers or not later than 5:00 p.m. on the fifth day after receipt of notification of nomination at a caucus. A person who has been convicted of a felony cannot run for or hold public office unless he or she has been pardoned of the offense. The [Declaration of Candidacy \(EL-162\)](#) contains a certification that the candidate meets this requirement. Wis. Stat. § 8.21.

**NOTE:** School District Candidates use the [EL-162sd](#).

The following information is required:

1. The candidate's name.
2. The proper title of the office the candidate is seeking, including any applicable seat, branch or district number.
3. Party affiliation does not apply for municipal (nonpartisan) elections.
4. The candidate's residential address, including number and street and municipality for voting.
5. The candidate's name on the form that the candidate wishes the name to appear on the ballot.
6. The form must be notarized or signed by a person authorized to administer oaths.

### *Nomination Paper Procedure*

All cities and some villages and towns use the nomination paper process.

1. [Nomination Papers for Nonpartisan Office \(EL-169\)](#) containing sufficient signatures for the office sought must be filed, along with the [Campaign Registration Statement \(CF-1, CF-1L\)](#) and [Declaration of Candidacy \(EL-162\)](#), not later than 5:00 p.m. on the first Tuesday in January for the Spring Election. If the first Tuesday in January is a holiday, the deadline is the next business day. Wis. Stat. § 8.10(2)(a).

Nomination papers may not be circulated before December 1<sup>st</sup> in the year preceding the Spring Election. Wis. Stat. § 8.10(2)(a).

2. Upon receipt of completed nomination papers, the municipal clerk should immediately review the filed papers to determine sufficiency. Nomination papers must be filled out correctly. In order to be sufficient, the following information is required for each section. Wis. Stat. § 8.10(2)(b).
  - a. Review the Candidate Information (top of form). All information concerning the candidate must be completed in full before circulating this form to obtain signatures of electors, including:
    - i. Name of the Candidate as it will appear on the ballot
    - ii. Candidate's residential (physical) address (number and street and municipality for voting). *If the mailing address is the same as the residential address except for the municipality, the municipality used for mailing must also be provided.*
    - iii. Candidate's mailing address if different from residential address
    - iv. Date of Election
    - v. Title of Office (must be listed along with any branch, district, or seat number that clearly identifies the office the candidate is seeking i.e., Town Board Supervisor number, if applicable; aldermanic district number if not an at-large seat)
    - vi. Name of jurisdiction or district in which candidate seeks office. (Town of Smith, Village of Jones, City of Green, Aldermanic District 1)
  - b. Review the Signatures of Electors section. Each row should contain the following:
    - i. Signature of elector (need not be legible)
    - ii. Printed name (must be legible)
    - iii. Address including street number and name
    - iv. Municipality for voting
    - v. Complete date of signing (Date must be between the first day to circulate and the nomination paper filing deadline.)

- c. A nomination paper circulator must be a qualified elector of Wisconsin or, if not a resident of Wisconsin, a U.S. citizen, age 18 or older who would be eligible to vote in Wisconsin if he or she were a resident.

Review the Certification of Circulator for the following:

- i. Name of Circulator
- ii. Address of Circulator (number, street and municipality for voting)
- iii. Signature of Circulator (need not be legible)
- iv. Date of certification (Date must be on or after the latest date of a signer.)

- 3. The number of signatures required depends on the office sought. The Ballot Access Checklist for Municipal Candidates (ELIS-7), which includes the number of signatures required for municipal office, should be included in the candidate packet. Wis. Stat. § 8.10(3)(a).

a. 1 <sup>st</sup> Class Cities	
Citywide offices	1,500 – 3,000
Aldersperson	200 – 400
b. 2 <sup>nd</sup> and 3 <sup>rd</sup> Class Cities	
Citywide offices	200 – 400
Aldersperson Elected At-Large	100 – 200
Aldersperson Elected by Alder District	20 – 40
c. 4 <sup>th</sup> Class Cities	
Citywide offices	50 – 100
Aldersperson	20 – 40
d. Village and town offices	20 – 100
e. School Districts (if nomination papers are used)	
Board of school directors	400 – 800
1 <sup>st</sup> Class Cities	
School Board Member territory within a 2 <sup>nd</sup> class city	100 – 200
School Board Member no territory with a 1 <sup>st</sup> or 2 <sup>nd</sup> class city	20 – 100

4. The municipal clerk should issue a receipt to the candidate or candidate's agent when nomination papers are filed. A sample [Nomination Paper Receipt \(EL-151\)](#) is available on the agency website.

### *Nomination by Caucus Procedure*

The specific procedure for nomination by caucus is detailed in the publication, [Procedures for Nomination of Candidate by Caucus](#), which is available on the agency website.

1. Only towns and villages may use the nomination by caucus procedure to determine the candidates for town or village office. Nomination by caucus is used in lieu of nomination papers and replaces the nonpartisan primary. Wis. Stat. § 8.05 (1).

At the caucus, nominations for town or village office are taken from the qualified electors present, either by acclamation (voice vote) or by ballot. If necessary, the number of nominees will be reduced to no more than twice the number of positions to be filled by a vote of the qualified electors present.

2. The town or village board must decide the date of the caucus between December 1 and January 1. The date of the caucus must be set between January 2 and January 21. Where possible, preference should be given to having the caucus on January 21. The caucus does not have to be on a Tuesday. Wis. Stat. § 8.05 (1)(a).
3. In addition to being nominated at the caucus, candidates must file the [Campaign Registration Statement \(CF-1\)](#) and the [Declaration of Candidacy \(EL-162\)](#), not later than 5:00 p.m. on the fifth day after the clerk sends or delivers the receipt of notification of nomination at the caucus. (If the fifth day falls on a Sunday or holiday, the deadline is extended to the next business day.) Wis. Stat. § 8.05 (1)(b).
4. Notification of nomination by caucus can be sent by certified mail or personally delivered. If personally delivered, the candidate should sign a receipt indicating that notification was received. Sample Notice of Nomination at Caucus and Receipt of Notice of Nomination are included in the [Procedures for Nomination of Candidate by Caucus](#) manual, which is available on the agency website. Wis. Stat. § 8.05 (1)(j).

## Write-In Candidates

A candidate who wishes to run as a write-in is required to file a Campaign Finance Registration Statement (CF-1, CF-1L) before collecting or spending any money on the campaign no later than 12:00 p.m. on the Friday preceding the election. If the candidate has already filed an CF-1 with the filing officer and subsequently decides to run as a write-in, Commission staff recommend the candidate submit a short-written statement to the filing officer reflecting their intent to run as a write-in. In some cases, votes cast for write-in candidates who do not file a campaign registration statement may not be counted. Please see the “Ballots” section of this manual. Wis. Stat. § 7.50(2)(em).

## Notification of Noncandidacy

An incumbent officeholder who does not intend to run again for the position he or she currently holds should file a [Notification of Noncandidacy \(EL-163\)](#). This alerts the public and potential candidates that the incumbent does not intend to run for re-election. Wis. Stats. §§ 8.05(1)(j), 8.10(2)(a), 8.15(1), 8.20(8)(a), 120.06(6)(b).

Clerks are required to promptly provide public notice of all Notification of Noncandidacy (EL-163) information received from incumbents to the municipality’s internet site or by posting notice in three places if no internet site is maintained. Wis. Stats. 8.05(1)(j)2m, 8.10(2)(am), 8.15(1m), 8.20(8)(ae), 120.06(6)(b)3m.

During November before the spring election, the filing officer should remind each incumbent to file a Notification of Noncandidacy (EL-163) if they do not intend to seek re-election to the office they currently hold. The Notification of Noncandidacy (EL-163) is used in municipalities using nomination papers.

Incumbents who have filed a Notification of Noncandidacy by the deadline retain the option of filing nomination papers for ballot access or running as a write-in candidate for the office.

**Note:** Filing of the Notification of Noncandidacy (EL-163) has no effect when candidates are nominated by the caucus procedure.



### *Filing Deadlines*

1. The Notification of Noncandidacy (EL-163) is due the second Friday before the deadline for filing nomination papers.
2. If an incumbent candidate fails to file a Notification of Noncandidacy (EL-163) on time, and does not file the appropriate documents to qualify for the ballot on time:
  - a. The deadline for filing ballot access documents is extended 72 hours for that office.
  - b. This means that anyone, except the incumbent, can file the required ballot access documents and sufficient nomination papers within the extension period and qualify for placement on the ballot.

### Filing Officers & Recordkeeping

Municipal and School District clerks serve as the filing officers for the following elected offices. Wis. Stat. § 8.10(6):

- |                          |   |
|--------------------------|---|
| 1. City Clerk:           | Mayor, City Clerk, Treasurer, Alderperson, any other elected city offices.                        |
| 2. Village Clerk:        | Village President, Trustee, Clerk, Treasurer, Municipal Judge, any other elected village offices. |
| 3. Town Clerk:           | Chairperson, Supervisor, Clerk, Treasurer, Assessor, Constable, Municipal Judge.                  |
| 4. School District Clerk | School Board Member   |

**Note:** Multi-jurisdictional municipal judges file with the county clerk of the largest portion of the jurisdiction served by the judge.

**Note:** The Milwaukee City Board of Election Commissioners serves as the filing officer for all City of Milwaukee offices, including school board.

The municipal clerk is responsible for receiving and retaining forms associated with candidates. The clerk shall create a separate file for each candidate. The following forms should be maintained in the candidate's file and kept for the applicable retention period:

1. Campaign Finance Registration Statement (CF-1, CF-1L)
2. Declaration of Candidacy (EL-162)
3. Nomination Paper for Nonpartisan Office (EL-169), if applicable
4. Nomination Paper receipts, if applicable
5. Receipt for Caucus Notification (Certified Mail or In-Person), if applicable
6. Campaign Finance Report (EL-2L), if required
7. Correspondence

A retention schedule entitled "Destruction of Election Materials" can be found in the *Other Materials* section of this manual.

### Frequently Asked Questions

1. Can a candidate who has properly filed nomination papers and qualified for the ballot withdraw their nomination papers to remove their name from the ballot?

No. State law states that any person who files nomination papers and qualifies to appear on the ballot may not decline nomination. The name of that person shall appear upon the ballot except in the case of death of the person. Once an individual has filed nomination papers with a filing officer, and has qualified for ballot placement, nomination papers or other ballot access documents cannot be withdrawn to remove a person's name from the ballot. Wis. Stat. § 8.35(1).

2. *Are incumbents required to file ballot access documents?*

Yes. All candidates including incumbents are required to file the appropriate ballot access documents for each election for which he or she is seeking office.

3. *It is not December 1<sup>st</sup> yet and a prospective candidate wants me to give him a Campaign Finance Registration Statement (CF-1). May I give it to him?*

Yes, absolutely. As soon as a person decides to be a candidate, he or she is *required* to register. Therefore, candidate packets, which include the Campaign Finance Registration Statement (CF-1), should be available for candidates at all times.

4. *It is not December 1<sup>st</sup> yet and a prospective candidate wants me to give him nomination paper form (EL-169). May I give it to him?*

Yes. A nomination paper form may be given to a prospective candidate at any time. The EL-169 should be included in the candidate packet.

5. *What if a candidate is campaigning before the Campaign Finance Registration Statement (CF-1, CF-1L) is filed?*

Failure of the candidate to file a Campaign Finance Registration Statement (CF-1) if they are collecting or spending money toward the campaign is a violation of campaign finance law and should be reported to the Wisconsin Ethics Commission.

However, failure to file a Campaign Finance Registration Statement (CF-1, CF-1L) does not affect the candidate's ballot access as long as the form is filed by the filing deadline.

6. *What happens if no candidates qualify for ballot placement?*

If no candidates properly complete and file ballot access documents in the time frame allotted, the ballot will contain only a space for a write-in candidate. (See [Procedures for Nomination of Candidates by Caucus](#) for information on this topic with respect to the caucus nomination procedure.)

7. *What should I do if I believe that an individual filing ballot access documents is a convicted felon?*

If it is brought to the filing officer's attention that a convicted felon has filed ballot access documents, the matter needs to be resolved in consultation with the municipal attorney. It is the position of the Wisconsin Elections Commission that the municipality should only act on information presented in the form of a sworn complaint, alleging that a candidate has been convicted of a

felony and evidence is provided in support of that allegation. The municipal attorney can assist the filing officer in verifying the basis of the complaint.

Once it has been determined that a candidate or an elected official has been convicted of a felony, the municipal attorney can assist the filing officer in removing the person's name from the ballot or take appropriate steps to have the person removed from office. A formal notice should be sent to the candidate or elected official informing him or her of the filing officer's decision to remove his or her name from the ballot.

*8. Should I, as clerk, check to make sure that no elected official or candidate has been convicted of a felony?*

No. The municipal clerk is not required to verify that every elected official or candidate for elected public office has not been convicted of a felony for which they have not been pardoned. The clerk should rely on the sworn statement of the candidate on the Declaration of Candidacy. No action should be taken unless there is evidence in the form of a sworn complaint as described above.

*9. What if our office is closed the first Tuesday in January for a holiday?*

If it is a state recognized holiday, the deadline for filing ballot access documents is extended to the next business day. If it is not, the clerk must be available for candidates filing ballot access documents.

# NOTICES

## Summary

County, municipal, and school district clerks are responsible for publishing five basic election notices:

1. Type A – Notice of Election
2. Type B – Sample Ballot and Voting Instruction Notice
3. Type C – Notice of Referendum
4. Type D – Polling Place Location and Hours Notice
5. Type E – Absentee Voting Notice

Sample election notices can be found on the agency website. These samples may require modification for your municipality based on offices up for election and voting equipment used in your municipality.

Additionally, Wisconsin law requires that meetings of all state and local governmental bodies, including governmental subunits, shall be publicly noticed, held in places reasonably accessible to members of the public, and shall be open to all citizens at all times unless otherwise expressly provided by law. Election-related meetings such as Board of Canvassers, voting equipment testing, post-election audits, etc., fall under this requirement, and the municipal clerk must properly notice such meetings. If you have specific questions about requirements for open meetings notice, please consult with your municipal attorney.

Wis. Stats. §§ 8.50, 8.55, 10.01, 10.02, 10.04, 10.06, 19.84, 120.06.

## Type A – Notice of Election

The purpose of this notice is to inform the public and potential candidates of the offices to be elected and inform voters of the upcoming election. This notice must include the following information:

1. Date of the election

2. Offices to be elected
3. Name(s) of the current incumbent(s)
4. Length of the term(s) and expiration date(s)
5. Beginning date for circulating nomination papers, if applicable
6. Deadline for filing nomination papers, if applicable
7. Proper location to file nomination papers, if applicable
8. Scheduling of caucus, if applicable
9. Statement on where to find district boundary information

For an election at which a referendum is to be held, the Type A Notice must include the following information:

1. Date of the election
2. Text of the referendum question
3. Statement on where to obtain a copy of the resolution directing submission of the question to the voters

Wis. Stat. § 10.01(2)(a).

### *Publishing*

1. Spring elections:

County clerks publish the Type A notice for federal (if required), state and county elections on the 4<sup>th</sup> Tuesday in November before the spring election.

Municipal clerks publish one Type A notice for municipal offices on the fourth Tuesday in November before a spring municipal election.

If there will be any municipal referenda to be voted on at the spring primary or election, municipal clerks publish a Type A Notice of

Referendum on the fourth Tuesday before the spring primary or election at which the referendum will appear.

2. Fall elections: County clerks publish the Type A notice for federal, state and county elections on the 2<sup>nd</sup> Tuesday in April preceding the general election.

If there are statewide constitutional amendments or county referenda on the ballot, the county clerk shall publish a Type A Notice of Referendum on the fourth Tuesday preceding the partisan primary and general election at which the referendum will appear.

If there are municipal referenda on the ballot, the municipal clerk shall publish a Type A Notice of Referendum on the fourth Tuesday preceding the partisan primary or general election at which it will appear.

3. Special municipal primary or election: Municipal clerks must publish the Type A notice at least 40 days preceding a primary and election for municipal office.
4. Special municipal referendum election: Municipal clerks must publish the Type A notice on the fourth Tuesday preceding the election.

Wis. Stat. § 10.06(2), (3).

## Type B – Sample Ballots and Voting Instructions

The purpose of this notice is to inform voters of the ballot type and the candidates for which they will vote, as well as provide voting instructions. This notice must include the following information:

1. Applicable voting instructions for each type of voting system used
2. A copy of each type of ballot to be voted on

### *Layout and Format*

1. The headline or caption, the introductory paragraph and the voting instructions shall be printed once at the beginning of the Type B Notice, followed by a sample of each ballot to be used at the election.
2. The sample ballots shall follow the voting instructions:

- a. The size and style of type and the general display of the sample ballots shall conform substantially to sample ballots provided by the Wisconsin Elections Commission. However, the ballot size may be reduced for publication in the notice.
- b. State law requires that all sample ballots must be printed on paper of a different color than the official ballots, may not be white, and must be overprinted with the word "SAMPLE".
- c. Touch screen sample ballots shall show a reduced diagram of the first screen of the touch screen voting machine and instructions to electors on how to vote on the machine.

Wis. Stat. § 10.01(2)(b).

### *Publishing*

1. Spring elections: Municipal clerks publish the Type B notice for municipal offices and referenda on the Monday before the spring election. Wis. Stats. § 10.06(3).

If there is a municipal primary, municipal clerks also publish a Type B notice on the Monday before the primary.

2. Fall elections: County clerks publish the Type B notice for state and county elections and referenda on the Monday before the partisan primary and before the general election. Wis. Stat. § 10.06(2).

If there are municipal referenda on the ballot, municipal clerks publish a Type B notice of referendum on the Monday before the election.

3. Special municipal election or referendum elections: Municipal clerks must publish a Type B notice on the day before the special municipal election, primary, or special municipal referendum.

Wis. Stat. § 10.06(2), (3).



## Type C – Notice of Referendum

The purpose of this notice is to inform voters of a referendum question that will appear on the ballot and provide an explanation of the effect of the referendum question. This notice must include the following information:

1. Date of the election
2. Entire text of the proposed enactment
3. Question as it will appear on the ballot
4. An explanatory statement describing the effect of a “yes” or “no” vote

Wis. Stat. § 10.01(2)(c).

### *Publishing*

1. Spring elections: If there are municipal referenda, municipal clerks publish a Type C notice on the Monday before the spring election.

If there is a municipal primary where referenda are voted on at the primary, municipal clerks publish a Type C notice on the Monday before the primary.

2. Fall elections: County clerks publish Type C notices for county and state referenda on the Monday before the partisan primary and general election.  
Wis. Stat.
3. If there are municipal referenda on the ballot, municipal clerks publish a Type C notice on the Monday before the election.
4. Special municipal election or referendum elections: Municipal clerks must publish a Type C notice on the day before a special municipal referendum.

Wis. Stat. § 10.06(2), (3).

## Type D – Hours and Location of Polling Places

The purpose of this notice is to inform voters of the correct polling location and the hours during which they may cast a vote. This notice must include:

1. Location of polling places
2. Wards served by each polling place
3. Hours of polling (7:00 a.m. to 8:00 p.m.)
4. A statement about the accessibility for elderly voters and voters with disabilities for each polling place
5. Public notice of the meeting of the local board of canvassers and the municipal board of canvassers, if required.

NOTE: For meetings of the local board of canvassers, the notice requirement may be met by adding a sentence to each Type D Notice indicating that immediately after the polls close, the election inspectors at each polling place will convene as the local canvassing board for the purpose of conducting local canvass pursuant to Wis. Stat. § 7.51.

When a municipal board of canvassers meets on Election Night in a municipality with only one polling place, the Type D notice should also indicate that, after or jointly with the meeting of the local canvassing board, the election inspectors will convene as the municipal canvassing board for the purpose of conducting the municipal canvass pursuant to Wis. Stat. § 7.53(1).

Wis. Stat. § 10.01(2)(d).

### *Publishing*

1. Spring elections: Municipal clerks publish the Type D notice on the Monday before the spring primary and election.
2. Fall elections: Municipal clerks publish the Type D notice on the Monday before the partisan primary and general election.

3. Special election or referendum elections: Municipal clerk must publish a Type D notice on the day before any special primary or election for national, state, county or municipal office, or special county or municipal referendum.

Wis. Stat. § 10.06(3).

### Type E Notice – Absentee Voting

The purpose of this notice is to inform voters of the process and deadlines for obtaining and casting an absentee ballot. This notice must include:

1. Qualifications for voting absentee
2. Procedures for obtaining an absentee ballot from the municipal clerk
3. Applicable deadlines for requesting and returning an absentee ballot
4. Any alternate site for absentee voting established under Wis. Stat. § 6.855
5. Office hours during which an elector may cast an absentee ballot at the clerk’s office or an alternate site

In-person absentee voting may begin when ballots are available and may not include the Monday before an election. The Type E Notice shall specify the hours that the municipal clerk will be available to conduct in-person absentee voting. The hours may be the same each day or vary from day to day. The municipal clerk may not conduct absentee voting outside of the hours listed in the Type E Notice. In-person absentee voting which begins before the notice is posted should be publicized in some manner, such as posting on the municipal website, on the clerk’s office door or via press release. If in-person voting will be “by appointment,” the Type E Notice must specify when the clerk will be available for appointments.

Wis. Stat. § 10.01(2)(e).

### *Publishing*

1. Spring elections: Municipal clerks publish the Type E notice on the fourth Tuesday before the spring primary or election.

2. Fall elections: Municipal clerks publish the Type E notice on the fourth Tuesday before the partisan primary and general election.
3. Special primary, election or referendum elections:
  - a. Municipal clerks publish the Type E notice on the fourth Tuesday before any special primary for national, state, county, or municipal office.
  - b. Municipal clerks publish the Type E notice on the third Tuesday before any special election for national, state, county or municipal office which is not held concurrently with the spring or general election.

Wis. Stat. § 10.06(3).

## Summary of Publishing Dates

	Spring Elections	Fall Elections	Special municipal primaries, elections, or referenda	Special primary, election, or referenda for national, state, or county
Type A	For spring municipal elections: 4 <sup>th</sup> Tuesday in November before the election	Published by County Clerk	For municipal offices: 40 days before the primary or election	Published by County Clerk
Type A: Notice of Referendum Election	If referenda voted on for spring primary or election: 4 <sup>th</sup> Tuesday before spring primary or election	Only if municipal referendum on ballot: 4 <sup>th</sup> Tuesday before the partisan primary or general election	For special municipal referendum: 4 <sup>th</sup> Tuesday before referendum election	Published by County Clerk
Type B	For spring primary or election: Monday before primary or election	Only if municipal referendum on ballot: Monday before the election	Day before the election	Published by County Clerk
Type C	If municipal referendum on ballot: Monday before the election	Only if municipal referendum on ballot: Monday before the election	Day before the election	Published by County Clerk
Type D	Monday before the election	Monday before the election	Day before the election	Day before the election
Type E	For spring primary or election: 4 <sup>th</sup> Tuesday before the election	4 <sup>th</sup> Tuesday before partisan primary and general election	Primary: 4 <sup>th</sup> Tuesday before	Primary: 4 <sup>th</sup> Tuesday before
			Election: 3 <sup>rd</sup> Tuesday before	Election: 3 <sup>rd</sup> Tuesday before
			Referendum: 4 <sup>th</sup> Tuesday before	Referendum: 4 <sup>th</sup> Tuesday before

## Procedures

### *Using Weekly Newspaper*

If a weekly newspaper that is not published on Monday is used for publication, the notices required to be published the day before the election must appear in the issue that is published during the week preceding the election. Notices may be published on a Saturday or Sunday if the clerk determines that this method provides more effective notice to the public.

### *Combined Publications and Prorated Costs*

County, municipal, and school district clerks may combine election notices where the notices contain identical information and when the levels of government share the same official newspaper. This practice reduces costs and avoids duplication. The costs for these combined notices can be prorated with the county paying for the portion of the notice covering federal, state, and county offices and municipalities and school districts paying for the portion that covers their respective local offices.

Wis. Stat. § 10.04.

### *Posting in Lieu of Publication*

Towns and villages may post election notices in lieu of publication where there is no newspaper published within the municipality. Please note that any notices that are posted physically should be in 18-point font or larger.

1. This is done by action of the governing body and, if it changes the former manner of notices, a notice must be given of the change before it can take place.
2. The same manner of notification must be used for all notices pertaining to an election.
3. Posting must be done in at least three conspicuous locations within the municipality, or in one location within the municipality and on the municipality's website.
4. For notices required to be published within one week of the primary or election (Types B, C, and D), posting must be done at least one week before the election. For all other notices (Type A and E), posting must be done no later than the required publication dates.
5. Posting may also be done to supplement publication.

Wis. Stat. § 10.05.

## Frequently Asked Questions

### *1. When can jurisdictions combine their notices to save on printing costs?*

Jurisdictions may combine their notices if the information on the notice is identical and when the levels of government share the same official newspaper. For example, only one Type B notice with sample ballots for each type of equipment, along with a list of candidates, districts and seats to be voted on in each municipality, needs to be published.

### *2. Who writes the explanatory statements for referendum questions?*

For statewide referenda, the explanatory statement is prepared by the Attorney General. For county questions, the statement is prepared by the county's corporation counsel, and for municipal or school district referenda, the statement is prepared by the attorney representing the jurisdiction.

### *3. What should a municipal clerk do if they miss a publication date for a notice or their newspaper of record makes an error?*

Clerks should attempt to fix any errors as soon as possible through an amended notice. If a periodic newspaper makes an error, it may not be possible to submit a timely correction. In this situation, municipal clerks should post the notice on their website, in their office, and anywhere else that may provide voters with needed information.





# BALLOTS

## Summary

County, municipal and school district clerks are responsible for preparing the ballots to be used in their respective elections. County clerks are also responsible for preparing ballots for federal and state offices and for the office of multi-jurisdiction municipal judge.

Where electronic voting equipment such as optical scan or direct recording electronic (DRE) is used, and federal and/or state and county offices are up for election as well as municipal and school district offices, the county clerk often prepares the ballots for municipal and school district offices. In these municipalities, municipal clerks are responsible for ensuring that sufficient paper ballots are available in case of equipment malfunctions, for absentee ballot requests, assisted electors, and for any other elector who may request a paper ballot on Election Day.

## Procedures

### *Certifying the Number of Electors*

Municipal clerks are required to certify to the county clerk the approximate number of electors in their municipality no later than the first day of the second month before a primary. This number is used by the county clerk to determine the number of ballots to print for the election. Wis. Stat. § 5.66(1).

### *Determining Ballot Order of Candidate Names*

1. The order that candidates' names will appear on the ballot is determined by drawing of lots or some other random determination (for example: drawing numbers or names out of a hat or flipping a coin if there are only two candidates).
2. For a spring election, drawing of lots is held not later than seven days after the deadline for filing nomination papers. Wis. Stats. §§ 5.58
  - a. The drawing is done at this time for those offices requiring a primary and also for the election ballot for those offices where a primary is not required.

- b. Following the primary for any office, the names are redrawn for that office to determine the order of names on the election ballot. Wis. Stat. § 5.60(1)(b), (5), (6).
3. Where the caucus procedure is used for nominating candidates for municipal office, the drawing is held no later than the end of the third day following qualification of all candidates. Wis. Stat. § 8.05(1)(j)4.
4. For a fall election, the county clerk (for county offices) and Wisconsin Elections Commission (for federal and state offices) draw for ballot order for the primary ballot not later than seven days after the deadline for filing nomination papers. Names are placed on the general election ballot following party order as certified by the Wisconsin Elections Commission. Wis. Stat. §§ 5.60(1)(b), 5.62(3), (4).
5. When conducting the drawing of lots for placement of names on the ballot, the Wisconsin Elections Commission recommends that at least three people participate in the drawing, the policy used by the Commission.
  - a. The three people are generally the clerk and two other people selected by the clerk.
  - b. It is important that the drawing be properly witnessed and documented.
  - c. The documentation should include the date of the drawing for ballot order, the ballot order drawn, the signature of the people who actually drew out the names, and the signatures of the two people who witnessed the drawing.
6. It is not necessary for candidates to be present at the drawing, but as a courtesy they may be invited to attend. If all candidates are present, they may draw for themselves.
7. Drawing of lots is not required to be done at a board meeting and should not be delayed for this reason.

## *Certifying Candidate Names and Referenda to the County Clerk*

When the county clerk prepares the ballot:

1. Where electronic voting devices are used:
  - a. The county clerk prepares the ballots for municipal and school district offices. Wis. Stats. §§ 7.10(1), (2); 7.15 (2)(c), (6).
  - b. The municipal and school district clerks must certify any names of candidates and any referenda to the county clerk as soon as possible following the deadline for filing nomination papers or declarations of candidacy, but no later than the deadline for drawing for ballot order, using the EL-405, which may be found on the agency website. Wis. Stats. §§ 5.58(1b)(bm), (cm), (1c), (1g)(c), (2), (2m) 5.60(1)(ag), (b), (3)(b), (4)(c), (5)(ar), (6)(a).
2. Where a caucus is held, the names of candidates must be certified to the county clerk as soon as possible following the qualification of candidates, but no later than the 3rd day after qualification of candidates, using the EL-405, which may be found on the agency website. Wis. Stat. §8.05(1)(j)4.
3. After any primary, the names of candidates must again be certified to the county clerk as soon as possible after the canvass, but no later than the third day after completion of the municipal or school district canvass, using the EL-405, which may be found on the agency website. Wis. Stat. § 5.60(1)(b), (5), (6).
4. The cost of programming equipment and printing these ballots is prorated among the various levels of government participating in the election. Wis. Stat. § 5.68.

### ***Printing and Proofing Ballots***

**Clerks should ensure that sufficient ballots are printed to avoid running out on Election Day. In municipalities that use direct recording electronic (DRE) equipment, the clerk must ensure that sufficient paper ballots are provided in case of equipment malfunction and to accommodate absentee ballot requests, assisted electors, and any other person who may request a paper ballot. Municipalities using DREs should also ensure that all machines have a full roll of paper and that there are paper rolls in reserve should they be needed.**

**Each clerk responsible for printing ballots must assure that his or her printer has the most current sample ballots. It may be helpful to provide a copy of this section of the training manual to your printer. Wis. Stat. § 7.08.**

Clerks should carefully review and proofread each ballot proof before printing to assure that:

1. The ballot used is the current form
2. The ballot contains all and only the offices up for election
3. All office titles are correct, spelled correctly, and in the correct order
4. All candidates' names are spelled correctly and are in the correct order
5. The form of each candidate's name reflects the candidate's desire as indicated on the Declaration of Candidacy. Wis. § Stat. 8.21(3).
6. On optical scan ballots, the candidate names are justified so that the names are closest to the oval or arrow.

It is recommended that you also proof the final product as soon as you receive it from the printer so that any errors can be identified and corrected immediately.

### *Delivery*

In order to ensure that absentee ballots are mailed to electors who have requested them in a timely fashion:

1. Ballots must be printed and delivered to the municipal clerk at least 22 days before a February spring primary, April spring election, or special primary or election. Wis. Stat. § 7.10(3)(a).
2. Ballots must be printed and delivered to the municipal clerk at least 48 days before a Partisan Primary and November General Election. A special Presidential Preference only ballot must also be delivered at least 48 days before the Presidential Preference Vote. Wis. Stat. § 7.10(3)(a).

## Ballot Format

Before preparing any ballots, the clerk must make sure that the most current ballot samples are used. Outdated ballot formats will not contain required statutory language and may not conform to ballot uniformity standards. The proper ballot formats are prescribed by the Wisconsin Elections Commission and may be accessed on the agency website. Wis. Stats. §§ 5.51, 7.08.

Ballot samples provided on the agency website contain virtually all offices that could appear on each ballot. It is important to note that only the offices that are up for election at any given election appear on the ballot. This means that ballot samples must be modified to eliminate any office from the ballot that is not up for election, or to add any offices that are up for election but may be missing from the sample ballot.

There are several basic requirements that apply to the preparation of all ballots, regardless of the type of election. These requirements are set out below:

### *Size*

The size of your ballot will depend on how many offices are up for election and how many candidates there are for each office. There is no actual size requirement for a ballot, but all ballots must be of sufficient width and length to provide space for all required information to be clearly printed on them. At a partisan primary, when using hand-count paper ballots, the ballots for each separate party must be the same size. Wis. Stat. § 5.51(3), (6)

### *Columns*

All ballot columns must be separated by lines at least one-eighth inch (1/8") width, except for ballots used with an electronic voting system. Wis. Stat. § 5.51(3).

### *Type Face*

The type face used on all ballots must be an easy-to-read, sans-serif font. Arial is preferred. Except for certain headings, all print must be in mixed case. In no case shall the font size be smaller than 8 point. A sample of 8-point font is given below. Larger print should be used whenever possible (for example, this manual was written in 14-point font). Wis. Stat. § 5.51(1).

### *Justification*

With certain exceptions, paragraphs, office titles, district, and “Vote for 1,” must be left justified. Candidate names must be left justified if using “oval” ballots, and right justified if using “arrow” ballots. Wis. Stats. §§ 5.51, 7.08.

### *Date*

The date of the election must appear on the face of the ballot beneath the title of the ballot. Wis. Stats. §§ 5.51, 7.08.

### *Paper Weight*

Wisconsin statutes set out a standard for the weight of the paper used for hand-counted ballots. The standard is 35 pounds per ream for sheets that are 24 inches by 36 inches (24”x36”). Ballots will never be that large so the weight of the paper used must be proportioned accordingly to meet this standard. Alert your printer to this requirement to ensure that paper of the proper weight is used. Wis. Stats. § 5.51 (2).

### *Color*

The law does not require ballots to be printed a specific color, but different colors can be used for each type of ballot to be used at an election. Wis. Stats. § 5.51(5).

1. The only legal requirements concerning the color of ballots are:
  - a. Paper hand-count referendum ballots must be printed on paper of a color that is different from other ballots used at the election. Wis. Stats. § 5.51(5).
  - b. At a partisan primary, paper hand-count ballots for each separate party must be printed on the same color paper and be the same size. Wis. Stats. §5.51(7)
  - c. Sample ballots cannot be the same color as the official ballots and may not be white. Wis. Stats. §§ 5.51(7),5.66(2).

2. Paper ballot color coding:
  - a. Using different colors to distinguish one type of paper ballot from another (federal, state, county ballots, municipal ballots, school district ballots and referendum ballots) helps to ensure that the inspectors give one of each type of ballot to the voter.
  - b. Color coding is particularly helpful when two reporting units share a single polling place.
  - c. Color coding makes it easier for the voter to deposit his or her ballot in the proper ballot box and also makes separating and counting of ballots much easier for the election inspectors.
3. Color coding can also be used to distinguish between ballots if the municipality uses optical scan equipment.

For example, ballots containing School District A offices and/or referenda could be a different color than the ballots containing School District B offices and/or referenda.

4. Using different color-coded ballots requires coordination among county, municipal, and school district clerks to ensure that the ballot prepared by each clerk is of a different color.
5. Within WisVote, each ballot style can be given its own specific name, which appears next to the voter's name on the poll list.
  - a. For example, a ballot style for a certain school district can be named "green" to match the color of the ballot for that school district.
  - b. This helps election workers to quickly identify which type of ballot to give to the voter.

*Write-in Lines and Boxes, Ovals or Arrows*

1. The ballot must contain a number of write-in lines equal to the number of candidates to be elected for each office. This is true for both primaries and elections.
2. For paper ballots:

- a. *Do not* include a box, square, arrow or oval on the write-in line.
- b. The voter is not required to place an X or any other mark on the ballot when voting for a write-in candidate. The voter needs only to write the name of the write-in candidate.

Wis. Stat. § 7.50(2)(d).

3. For optical scan ballots:

- a. An oval or arrow *is* required to appear next to each write-in line.
- b. A completed arrow or filled-in oval next to a write-in line signals the tabulating equipment to deflect the ballot into the write-in compartment.
  - i. The voter is not required to complete the arrow or fill in the oval when writing in a name in order to have the vote counted.
  - ii. After the polls close, inspectors must page through the optical scan ballots that have not been deflected to the write-in compartment to locate and count any write-in votes.
  - iii. Please see *Counting Write-in Votes* in the “Ballots” section of the Election Day Manual for more information.

Wis. Stat. § 7.50(2)(d).

*Ballot Endorsement*

Every ballot must have an endorsement. Endorsement language is prescribed by the Wisconsin Elections Commission on the Reverse Side of Official Ballots (EL-229), which is available on the agency website. Wis. Stat. §§ 5.55, 7.08(1)(a).

1. The endorsement contains:
  - a. The title and date of the election
  - b. The municipality and wards applicable to the ballot: If all reporting units use the same ballot style, all reporting units may be printed on the ballot rather than printing separate ballots for each reporting unit.



The clerk and inspectors must remember to mark the appropriate ward or reporting unit before issuing a ballot to a voter. A rubber stamp may also be used to apply ward numbers to the endorsement.

- c. Spaces for the official(s) issuing the ballot to initial before giving a ballot to a voter
    - i. A space for two inspectors to initial before issuing a ballot on election day. Wis. Stats. §§ 5.54, 6.90(2)(d).
    - ii. A space for the municipal or deputy clerk to initial when issuing an absentee ballot. Wis. Stat. §§ 5.54, 6.87(1).
    - iii. A space for both SVDs to initial when conducting absentee voting in care facilities or retirement homes. Wis. Stats. §§ 6.875(4), 7.08(1)(a).
  - d. A certification to be signed by a person who may assist a voter in marking the ballot. Wis. Stats. §§ 6.82(2), 7.08(1)(a).
  - e. A “For Official Use Only” area where inspectors record remaking an optical scan ballot.
2. For paper ballots, the endorsement appears on the reverse side of the ballot.
  3. For optical scan ballots, an endorsement section containing the Reverse Side of Official Ballots (EL-229) language, including the “For Official Use Only” section, may appear on the back of the ballot or at the bottom of any column.

#### *Appearance of Candidates’ Names*

1. All candidates’ names must be printed in the same font size, style and color. Wis. Stat. § 5.51(6).
2. The candidate indicates on the Declaration of Candidacy (EL-162) how he or she wishes his or her name to appear on the ballot. Wis. Stat. § 8.21(3).
  - a. No abbreviations, titles, quotation marks or parenthesis are permitted. A candidate may use their last name and first name or initial(s). A middle name or initial or a former legal surname may also be used. Wis. Stat. § 8.10(2)(b).

- b. A nickname may be used in place of or in addition to the first name. The Wisconsin Elections Commission has determined that, absent any evidence of an attempt to manipulate the electoral process, candidates are permitted to choose any form of their name, including nicknames, by which they want to appear on the ballot. Wis. Stat. § 8.10(2)(b).
- c. The Wisconsin Elections Commission advises the clerk to consult with the municipal attorney or corporation counsel before making a final decision to allow or not allow the use of the nickname.

### The Federal Write-in Absentee Ballot for Military and Overseas Electors

Citizens living overseas and military voters often have difficulty receiving and returning ballots quickly. The Federal Voting Assistance Program (FVAP) has a write-in absentee ballot available on their website (<http://fvap.gov>) for overseas and military electors to complete if they are unable to submit an official ballot. Wis. Stat. § 6.25.

1. The Federal Write-In Absentee Ballot must be accompanied by a completed Declaration/Affirmation which must also include the signature of the elector and the signature of a U.S. citizen witness in order to be counted.
2. The completed and signed Declaration/Affirmation that accompanies the FWAB is also a valid absentee application for a military elector. However, if submitted by an overseas elector, the elector must have submitted a separate absentee request that is received no later than the 5<sup>th</sup> day before the election in order to count the FWAB.

For further information, please see the “Electors” section of this manual.

**Note:** Permanent overseas voters may only vote in federal elections and will only receive a ballot for federal offices. Military voters can vote in all elections for all offices. Wis. Stat. § 6.24.

### **Referendum Ballots**

1. For paper ballots:

- a. A separate ballot is required for referenda.
  - b. Statewide and county referenda can be placed on the same ballot as long as the ballot clearly differentiates between the state and county referenda.
  - c. A separate ballot must be prepared for municipal referenda.
  - d. A separate ballot must be prepared for school district referenda.
2. For optical scan or consolidated ballots:
- a. There must be a separate REFERENDUM section on the ballot.
  - b. The ballot should clearly differentiate between state, county, municipal, and school district referenda.
  - c. The title of the ballot must include the language “and Referendum.”

Wis. Stats. §§ 5.51(5), 5.60(7), 5.64(2), 5.655 and 7.08(1)(a).

## **Sample Ballots**

1. Two samples of each type of ballot are required to be posted at the polling place on Election Day. Wis. Stat. § 5.35(6)(a) 3.
2. Sample ballots are also required to be available to persons who request them. The number of sample ballots should equal 10% of the total number of official ballots printed. Wis. Stat. § 5.66(2).
3. Sample ballots cannot be printed on white paper. They must be printed on colored paper and the color must be different than the color used for the official ballots. Wis. Stat. § 5.51(5), 5.66(2).
4. The word ‘SAMPLE’ must be overprinted on all sample ballots. Wis. Stat. § 5.66(2).
5. The endorsement does not have to be printed on sample ballots. Wis. Stat. § 5.51(5).

## Frequently Asked Questions

1. *For each office, the ballot indicates how many votes can be cast in that office. What is the proper format of that instruction?*

The number of candidates an elector is allowed to vote for, whether at a primary or an election, is the same as the number of officers to be elected. If there is only one position to be filled, such as with the office of Mayor, the instruction is “Vote for 1.” If there are three trustee positions up for election, the instruction is “Vote for not more than 3.” Wis. Stats. §§ 5.52, 7.08(1)(a).

2. *How many write-in lines are required?*

The number of write-in lines required is equal to the number of candidates for which the elector is allowed to vote. If there is only one position to be filled, such as with the office of Mayor, the instruction is “Vote for 1.” Therefore, one write-in line is required. If there are three trustee positions up for election, the instruction is “Vote for not more than 3.” Three write-in lines are required.

3. *In a primary, how many candidates may go on to the general election?*

The number of candidates that proceed from a primary to an election is equal to twice the number of candidates for which the elector can vote. Wis. Stat. § 5.58(3).

### *Examples:*

If the instruction is “Vote for 1,” the two candidates receiving the highest number of votes will appear on the election ballot.

If the instruction is “Vote for not more than 2,” the four candidates receiving the highest number of votes will appear on the election ballot.

If the instruction is “Vote for not more than 3,” the six candidates receiving the highest number of votes will appear on the election ballot.

# ELECTORS

## Summary

Interactions with electors, both positive and negative, influence the public's confidence in the ability of election officials to administer elections in Wisconsin fairly. As a municipal clerk, it is your duty to ensure that the information provided, material disseminated and any procedure undertaken is correct. In the State of Wisconsin, a qualified elector must be registered to vote before being issued a ballot. A municipal clerk is charged with the responsibility of maintaining records to track voter registration, absentee voting, and voting through the WisVote system.

## Voter Qualifications

In order to register to vote, an individual must:

1. Be a U.S. citizen
2. Be age 18 or older on or before Election Day
3. Have resided in an election district or ward for 28 consecutive days, with no present intent to move, before any election where the citizen offers to vote.

Wis. Stat. § 6.02(1).

### *Residency*

An individual's residency in a ward or municipality is determined by the individual's physical presence and present intent to reside in that location for voting purposes. In order to initially claim residency, a voter must establish a physical presence in a location with the intent to make that location their residence for voting purposes.

1. Temporary Presence/Absence
  - a. Residency is not lost when a person leaves "home" and goes to another location temporarily with intent to return "home." Persons who have temporarily left their homes are still residents of the "home" municipality despite their temporary absence. Wis. Stat. § 6.10(5).

- b. Residency cannot be established in any ward, town, village or city in this state while living there for temporary purposes only. Wis. Stat. § 6.10(8).

## 2. Intent to Return

- a. Once residency is established, a person may be temporarily absent and still be considered a resident, as long as they intend to return. Wis. Stat. § 6.10(5).
- b. A person may end their residency by leaving their residence and doing something that establishes they no longer intend to reside at their old residence (e.g., registers to vote at another address). Such a person cannot continue to vote at their previous residence without re-establishing residency. Wis. Stat. § 6.10(10).

## 3. Student Status

- a. Student status is not to be used as a factor in determining residence. A student may choose to establish residency in the municipality where they live to attend school or the student may consider their stay in the municipality to be “temporary” and intend to return to their former municipality. Wis. Stat. § 6.10(4), (12).
- b. If a student registers to vote in the municipality where they attend school, the student loses their residency in their prior municipality and must re-establish residency in the prior municipality before they would be eligible to register to vote there in another election. Wis. Stat. § 6.36(1)(d).

## 4. “Part-time” Residents

- a. A person may only vote in one municipality each election. In order to vote in a municipality, a person with part-time residency in a municipality must intend that their physical presence in the ward or municipality establishes residence for voting purposes. Wis. Stat. § 6.10 (1).
- b. Merely owning property in a municipality is not sufficient to claim residency. A person must have established a physical presence paired with the intent to make that address their permanent residence.

## 5. New/Former Residents

- a. A person who has not resided in any ward in Wisconsin for at least 28 days should be advised to check with their former state of residence to inquire as to any voting options they may have as former residents of that state. Alternatively, in Presidential elections, new residents of Wisconsin may vote a Presidential-only ballot by submitting a completed Application for Presidential Ballot (EL-141) to either the municipal clerk in the 9 days before the election or to the election inspectors at the polling place for their new address. Wis. Stat. § 6.15(1), (2)(a).
  - i. The voter must also complete an Authorization to Cancel Registration (EL-139), which the clerk must send to the proper election official for the new resident's former municipality.
  - ii. Proof of Residence is required.
  - iii. No voter registration (EL-131) is required. The voter is not registered.
  - iv. Proof of Identification is required.
  - v. The EL-141 may be submitted no earlier than 27 days before the election and shall be received not later than 5:00 p.m. on the day before the election when delivered to the clerk's office.
  - vi. The EL-141 may also be submitted on Election Day at the polling place.

Wis. Stat. § 6.15(2)(a), (b).

- b. If ineligible to qualify as an elector in the state to which they have moved, any former Wisconsin resident may vote a Presidential-only absentee ballot in their former municipality and ward of residence in any presidential election occurring within 24 months of leaving Wisconsin by submitting a completed Application for Absentee Presidential Ballot (EL-140) to their former municipal clerk.
  - i. No voter registration (EL-131) is completed.
  - ii. No proof of residence is required.
  - iii. Proof of identification is required.
  - iv. The form must be notarized.

- v. There is no fixed deadline for receipt of the EL-140. The EL-140 must simply be received “in sufficient time for a ballot to be mailed and returned prior to the election.”

Wis. Stat. §6.15(2).

*Other Common Residency Scenarios*

Voter Situation	Voting Location
Has moved from one ward to another in the same municipality at least 28 consecutive days before an election	In the new ward. Wis. Stat. § 6.02(2).
Has moved from one municipality to another at least 28 consecutive days before an election	In the new municipality. Wis. Stat. § 6.02(2).
Has moved from one ward to another in the same municipality less than 28 consecutive days before an election	In the old ward. Wis. Stat. § 6.10(3).
Has moved from one municipality to another less than 28 consecutive days before an election	In the old municipality. Wis. Stat. § 6.10(3).
Has moved to a different ward, or state temporarily, with intent to return	In the ward or municipality from which they moved. Wis. Stat. § 6.10(8).
Lives in one ward or municipality and conducts business in another	In the ward or municipality where the individual lives. Wis. Stat. § 6.10(6).
Lives in a public or private facility, such as a federal or state institution, county home or hospital, nursing home or group home	In the municipality where the facility is located <i>or</i> in the municipality of residence before entering the facility. Wis. Stat. § 6.10(7m).
Is on active duty as a member of the armed forces serving in the U.S. or overseas	In the municipality or ward of residence before entering the armed services. Wis. Stats. §§ 6.10(6) and 6.24(2).
Is the spouse or dependent of a member of the armed forces	In the ward or municipality of residence of the military elector <i>or</i> if a Wisconsin resident, municipality or ward of residence before entering the



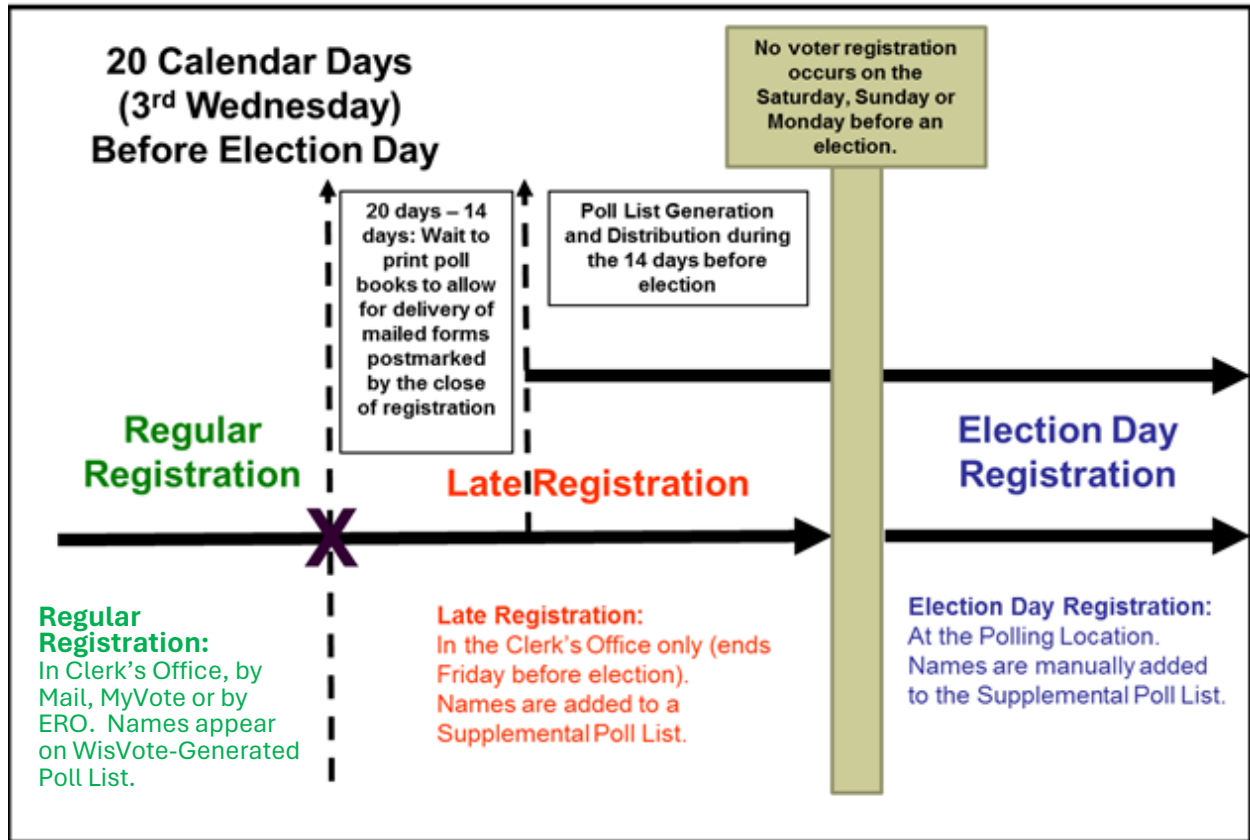
Voter Situation	Voting Location
	armed services. Wis. Stat. § 6.10(13).
Is a civilian overseas employee of the U.S. Government	In the municipality or ward of residence before entry into federal employment. Wis. Stat. § 6.22(2)(a).
Is a U.S. Citizen living outside the United States with no present intent to return	In the municipality or ward where they last resided or where their parent last resided before leaving the United States. Wis. Stat. § 6.24(2).

### *Disqualification of Electors*

The following persons shall not be allowed to vote in any election:

1. Any person convicted of treason, felony, or bribery that has not been pardoned or completed the terms of their sentence including any term of probation, parole, or extended supervision. Wis. Stat. § 6.03(1)(b).
2. A person who has been determined by a court to be incapable of understanding the objective of the elective process or who is under guardianship, unless the court has determined that the person under guardianship is competent to exercise the right to vote. Wis. Stat. § 6.03(1)(a).
  - a. The court order granting guardianship should specifically declare if the person is incompetent to exercise the right to vote. If the order does not include a specific finding of incompetency to vote, the person retains the right to vote.
3. Anyone who has made or become interested, directly or indirectly, in any bet or wager depending upon the result of the election. Wis. Stat. § 6.03(2).

## Voter Registration



All electors must be registered before being issued a ballot. There are four methods by which an elector may register to vote:

### 1. By Mail

- a. The elector must complete and sign a Voter Registration Application (EL-131), enclose a copy of the elector's proof of residence, and mail the completed application to the municipal clerk's office. Wis. Stat. § 6.34(2).
  - i. Wisconsin also accepts the Federal Post Card Application.
  - ii. Registrants who submit incomplete voter registration applications or fail to provide a copy of proof of residence when required should be advised in writing that the registration

is incomplete and how to repair the deficiency. Wis. Stat. § 6.32(2).

1. The EL-132 is a customizable template letter that a clerk should send to a voter who has not submitted proof of residence with their voter registration when required.
  2. Any insufficiency must be mailed no later than the 20<sup>th</sup> day before the election or delivered in-person no later than 5:00 p.m. the Friday before the election, or the elector can re-register on Election Day at the polls. Wis. Stat. § 6.32(3).
- b. The application must be postmarked no later than the 20<sup>th</sup> day (which is the 3<sup>rd</sup> Wednesday) before the election. Wis. Stat. § 6.28(1)(a).
- i. Completed applications delivered to the clerk’s office by an individual other than the registrant are considered delivered “by-mail,” for deadline purposes.
  - ii. A registrant who postmarks their application after the 20<sup>th</sup> day before the election should be advised in writing that their application cannot be processed until after Election Day. The registrant should also be advised of any remaining opportunities to register to vote in the coming election. Wis. Stat. § 6.32(3).
- c. The clerk or deputy should review the application and the enclosed proof of residence to ensure the application is legible and complete before signing and dating the application.
- d. The Wisconsin Elections Commission will mail a voter verification postcard to the voter’s residential address as listed on the Voter Registration Application. Wis. Stat. § 6.32(4).

2. In the Clerk’s Office:

- a. The elector must sign a completed Voter Registration Application (EL-131) in the presence of the clerk or deputy. Wis. Stat. § 6.55 (2)(c).

- b. The elector must present the clerk or deputy with proof of residence. The clerk or deputy must record the type, issuing entity, and the last few digits of the unique number associated with the proof of residence, if any. If such number is 7 or more digits in length, the last 4 digits must be recorded. If the unique number is 6 or fewer digits in length, only the last 2 digits are required. Wis. Stat. § 6.34(2).
- c. The clerk or deputy should first review the application to ensure the application is legible and complete and then sign and date the completed application.
- d. For all registrations in the clerk's office after the 20<sup>th</sup> day before the election, the clerk or deputy must issue a Certificate of Registration (EL-133) to the voter, which they should present at the polling place before being issued a ballot. Wis. Stats. §§ 6.55(2)(c)2, 6.29(2)(b).
  - i. The EL-133 is NOT available on the WEC website, but is available upon request.
  - ii. The EL-133 must be issued even if the voter is also voting in-person absentee at the same time.
- e. For all registrations in the clerk's office after the 20<sup>th</sup> day before the election, the clerk or deputy must review the Ineligible Voter List to confirm that the elector will not be ineligible to vote on the day of the election. Wis. Stat. § 6.29(2)(am).
  - i. If the name of the elector appears on the list, the clerk shall inform the elector that the elector is ineligible to register to vote per Department of Corrections.
  - ii. If the elector agrees that they are ineligible, the registration should be rejected.
  - iii. If the elector maintains that they are eligible to vote in the election, the clerk shall make a reasonable effort to contact the WEC to verify the elector's felony status.
    - 1. If WEC confirms the elector is eligible to vote, the clerk should document on the Voter Registration Application

(EL-131) that they confirmed the voter's status with WEC and then allow the elector to proceed to register to vote.

2. If WEC confirms that the elector is NOT eligible to vote or if the clerk is unable to contact the WEC, the clerk should:

a. Give the elector the Ineligible Voter Information Sheet that explains to the elector what they need to do to resolve the issue with the Department of Corrections.

b. Permit the elector to register to vote, but mark the Voter Registration Application (EL-131) and Certificate of Registration (EL-133) as "ineligible to vote per Department of Corrections."

f. The application must be received no later than 5:00 p.m. on the 5<sup>th</sup> day before the election (Friday). Wis. Stat. § 6.29(2)(a).

3. At the polling place on Election Day (Election Day Registration)

a. The elector must sign a completed Voter Registration Application (EL-131) in the presence of an election inspector or Election Registration Official. Wis. Stat. § 6.55(2)(b). If the municipality uses Badger Books, the EL-131 is completed electronically on the machine.

b. The elector must present the election official with proof of residence. The election official must record the type, issuing entity, and the last few digits of the unique number associated with the proof of residence, if any. If such number is 7 or more digits in length, the last 4 digits must be recorded. If the unique number is 6 or fewer digits in length, only the last 2 digits are required. Wis. Stats. §§ 6.34(2), 6.15(2)(bm).

c. The election official must review the Ineligible Voter List to confirm that the elector is eligible to vote on the day of the election.

- i. If the name of the elector appears on the list, the election official shall inform the elector that the elector is ineligible to register to vote per Department of Corrections.
- ii. If the elector agrees that they are ineligible, the registration should be rejected.
- iii. If the elector maintains that they are eligible to vote in the election, the election official shall make a reasonable effort to contact the WEC to verify the elector's felony status.
  1. If WEC confirms the elector is eligible to vote, the election official should document on the Voter Registration Application (EL-131) that they confirmed the voter's status with WEC and then allow the elector to proceed to register to vote.
  2. If WEC confirms that the elector is NOT eligible to vote or if the election official is unable to contact the WEC, the election official should:
    - a. Give the elector the Ineligible Voter Information Sheet that explains to the elector what they need to do to resolve the issue with the Department of Corrections.
    - b. Permit the elector to register to vote but mark the Voter Registration Application (EL-131) as "ineligible to vote per Department of Corrections."
    - c. If the elector wishes to vote, the inspectors shall challenge the ballot (see Election Day Issues, Challenging Voters). Wis. Stat. § 6.29(2)(am).
- d. The election official should first review the application to ensure the application is legible and complete and then sign and date the completed application.
- e. If the clerk's office is in the same building as the polling place, a governing body may by resolution provide that electors who need to

register to vote do so with the clerk rather than in the polling place with election inspectors. Wis. Stat. § 6.55(2)(c).

- i. If this option is used, a notice must be placed in the voting area directing electors who wish to register to come to the clerk's office.
  - ii. The clerk should follow the procedures outlined above for a Clerk's Office registration.
  - iii. In addition to the Certificate of Registration (EL-133), the registrant must also be provided a copy of their signed voter registration application (EL-131) to give the election inspectors in the voting area.
- f. The Wisconsin Elections Commission will mail a voter verification postcard to the voter's residential address as listed on the Voter Registration Application. Wis. Stat. § 6.32(4).

### *Completing the Voter Registration Application*

Proper completion of the Voter Registration Application (EL-131) will ease the process of entering information into WisVote and ensure the voter will appear on the poll list for Election Day. It is the responsibility of the municipal clerk to notify an elector of any insufficiency in their voter registration application within 5 days, if possible. A customizable letter template ([EL-132](#)) is available for this purpose. There is an updated version of the EL-131, which this manual will outline. However, any version of the EL-131 should be accepted as long as it contains proper voter information.

### Front Side of Voter Registration Application

#### 1. Qualifications

- a. Registrants must be able to check each of the four boxes in this section.
- b. The registrant may be 17 years old if they will be 18 years old by the time of the next election.

## 2. Your Name

- a. The registrant should provide their full name as it appears on their Wisconsin Driver License or Wisconsin DOT-issued Identification Card, if applicable, and the proof of residence document provided for box 8 on the form.

## 3. About You

- a. Date of Birth
  - i. Month, day, and year of birth is required. Voters should be encouraged to use all four digits of their year of birth, but if someone writes the last two digits, the application should not be denied.
- b. Contact Information (OPTIONAL)
  - i. Any phone or email address provided is subject to open records requests.

## 4. The Address Where You Live

- a. This is the voter's address where they vote from, which may be different than their mailing address.
- b. This section will also be used to indicate military or permanent overseas statuses.
  - i. Military – A member of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine of the United States, Peace Corps, the commissioned corps of the Federal Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States, and any spouse or dependents of the above who are residing with or accompanying them.
  - ii. Permanent Overseas – A U.S. Citizen who is not disqualified from voting and is qualified to vote except for residency, but who last resided (or whose parent last resided) in Wisconsin prior to residing outside the United States. Permanent overseas voters should provide the last address in Wisconsin either they or their parent last resided before permanently moving overseas.

## 5. Your Mailing Address



- a. If the registrant does not receive mail at the residential address, a mailing address should be provided. Failure to provide a valid mailing address may result in the voter registration being inactivated.
- b. Electors residing overseas should provide their complete overseas address where space is available.

## 6. Prior Registration Information

- a. Name Change
  - i. A voter is required to update their registration if they change their legal name.
  - ii. As it may take some time for a voter to receive proper documentation of their new legal name, a registered voter may continue to vote using their former name until the necessary documentation to re-register is received.
- b. Address Change
  - i. A registered voter is required to update their registration if they wish to vote from their new residence.

## 7. Identification

- a. To complete the Voter Registration Application (EL-131), the registrant must provide either a Wisconsin Driver License or Wisconsin DOT-issued Identification Card, or the last four digits of their Social Security Number. This does NOT require visual confirmation by the clerk or an election inspector, and the elector may write down or recite the number if they choose. An elector cannot be required to show their WI Driver License, WI DOT-issued ID card, or Social Security card as a condition of registration, unless it is a document used to provide acceptable proof of residence.
- b. Wisconsin Driver License or Wisconsin DOT-issued ID Card Number
  - i. If the registrant has been issued either a WI Driver License or WI DOT-issued ID Card that is unexpired or cancelled, they must provide the number and expiration date, even if the registrant's driving privileges were revoked or suspended.
  - ii. If the registrant has a WI Driver License or WI DOT-Issued ID Card that is unexpired but does not have the number or expiration date readily available, they may call DMV at (608) 266-1069, option 1 to look up the information.

- iii. If the registrant has either a WI Driver License or WI DOT-Issued ID Card that is currently expired or cancelled, request the voter provide the identification number if available. The registrant must provide the last 4-digits of the Social Security Number, if any.
  - c. Social Security Number – Last Four Digits
    - i. If the registrant has not been issued a WI Driver License or WI DOT-Issued ID Card or the document is expired or cancelled, the registrant must provide the last 4-digits of their Social Security Number, if any.
    - ii. If the registrant does not have either a WI Driver License or WI DOT-Issued ID Card and has not been issued a Social Security Number, they may indicate this by checking the box signifying they have none of these documents.

## 8. Proof of Residence

- a. The registrant will affirm that they are providing a valid form of proof of residence with this application. The document must list the voter's complete name and Wisconsin residential address.
  - i. Some examples include a copy of their WI Driver License or WI DOT-Issued ID Card, a utility bill, any government-issued document, a paycheck, or a bank or credit card statement.
- b. Military and Permanent overseas voters do not need to provide a proof of residence document.

## 9. Signature and Certification

- a. The registrant should read this language before certifying that they are an eligible elector and have resided in the ward for at least 28 days.
- b. They will provide their signature and the date they are signing.

## 10. Assistant

- a. If the registrant required another person to complete this form on their behalf due to a physical disability, the assistant should sign and provide their residential address here. Wis. Stat. § 6.82(2)(d).

## 11. Official Use Only Section

- a. The election official receiving the application (clerk, election inspector, ERO) should review the proof of residence.

At the top of the section, the official will circle the Proof of Residence type.

Wis. Stat. § 6.34.

- i. WI DL – Wisconsin-Issued Driver License.
- ii. WI ID – Wisconsin DOT-Issued Identification Card.
- iii. UTIL – Any form of utility bill, including cell phone, cable, electric, gas, and water. Must be dates no more than 90 days prior to the date the registrant submits the document.
- iv. BANK/CC – A bank or credit card statement, including retail credit card statements and mortgage statements. An offer to open a credit card is NOT an acceptable Proof of Residence document.
- v. PYCK – Paycheck or Paystub.
- vi. STDNT ID – A student ID that includes a photo (address not required). The registrant must provide either:
  1. A fee payment by the university, college, or technical college dated no earlier than 9 months before the date of election. The fee payment receipt must include the name and address of the student.
  2. A certified and current list of students who reside in housing sponsored by the university, college, or technical college. This list should be provided by the university, college or technical college, and the election official will verify the name of the student on the ID is included on the list.
- vii. GOV DOC – Any government-issued document.
  1. Examples include (not an exhaustive list):
    - a. Vehicle Registration
    - b. BadgerCare/Medicare statements (if issued by gov't agency)
    - c. Social Security statements (if issued by gov't agency)
    - d. Public school correspondence.

- e. Tribal ID or tribal-issued document
  - f. Change of address from USPS
  - g. Federal student loan notices (if issued by gov't agency)
  - h. Mail from government-owned medical facilities, such as UW Hospitals and Clinics, VA Hospitals, county-owned clinics
- viii. LSE – a residential lease containing the landlord name, tenant name, address subject to lease, term, rent, landlord signature, and tenant signature (may not be used to register by mail).
  - ix. GOV ID – any other identification card or license issued by a Wisconsin governmental body or unit.
  - x. EMPL ID – An identification card issued by an employer in the normal course of business and bearing a photo of the card holder, but not including a business card.
  - xi. RES CARE – a contract or intake document from an occupant of a residential care facilities that specifies the occupant currently resides in the facility.
  - xii. TAX – A real estate tax bill or receipt for the current year or the year preceding the date of the election.
  - xiii. HMLSS – A signed letter on public or private social security agency letterhead identifying a homeless voter and describing the individual's residence for voting purposes.
- b. Proof of Residence Issuing Entity
    - i. WI DMV, MG&E, WE Energies, etc.
- c. Proof of Residence Number, if any
    - i. If the unique number associated with the proof of residence is 7 or more digits in length, the last 4 digits should be recorded here.
    - ii. If the unique number associated with the proof of residence is 6 or fewer digits in length, only the last 2 digits are recorded here.
- d. Date Complete/POR Received

- i. If the application is complete and the proof of residence is acceptable (see below), the election official who received the application (ERO, clerk or election inspector) should date it.
  - ii. If the application is received via mail, the clerk should date it after reviewing it for completeness and legibility.
- e. Election Day Voter Number
  - i. If registering on Election Day, the voter will be issued a voter number. This number should also be recorded on the supplemental poll list.
- f. WisVote ID #
  - i. This number is only provided once the registration has been entered in WisVote and the voter has become registered.
- g. Confidential Elector ID #
  - i. If the registrant has registered through the confidential elector process, they will be issued a number that should be listed here.
- h. Submitted by mail
  - i. If registrant mailed their voter registration application, check this circle.
- i. Official's signature
  - i. The election official first receiving the application (ERO, clerk, election inspector) should review the form for completeness and legibility before signing.
  - ii. If the application is incomplete or illegible, the election official should not sign the form.
    - 1. If the registrant is still available, ask the registrant to complete the missing information or print more clearly.
    - 2. If the registrant is no longer available, the election official should submit this form to the clerk with a note explaining the deficiency.
    - 3. The clerk should contact the registrant within 5 days of receipt of any incomplete or illegible applications.
  - iii. If the application is being received after the 20<sup>th</sup> day before the election or on Election Day, the election official must also

check the Ineligible Voter List before signing (see respective registration procedures above).

- j. Bottom Row
  - i. Ward
  - ii. Sch. District
  - iii. Alder
  - iv. City Supr.
  - v. Ct. of App
  - vi. Assembly
  - vii. St. Senate
  - viii. Congress

#### Back Side of Voter Registration Application

1. If the registrant resides somewhere without a designated address, the registrant should use the map in box 4 on the backside to diagram where they reside in relation to known streets or landmarks.
2. If the registrant needs accommodations at their polling place (curbside voting, braille materials, etc.), they should make those requests on the bottom of the application.
3. If the registrant is interested in being a poll worker, they should indicate in the checkbox on the bottom of the application.

Wis. Stat. § 6.33(1). EL 3.10(2).

#### *Proof of Residence*

Everyone (except military and permanent overseas electors) who wishes to register to vote or update their voter registration must present a proof of residence document to prove that the person resides at the address listed on the Voter Registration Application (EL-131). If the person is registering in-person with an election official, they do not need to provide a copy of the document; they may simply show it to the election official. Electronic versions are also acceptable. The document must contain the voter's current and complete name and current and complete Wisconsin residential address. If the document has an expiration date, it

must not be expired on the day registration is made. Note that some documents do not have an expiration date and are still considered valid.

The following documents constitute acceptable proofs of residence:

1. An unexpired Wisconsin Driver License or receipt for license, even if driving privileges were revoked or suspended.
2. An unexpired Wisconsin DOT-issued Identification Card or receipt for identification card.
3. Any other official identification card or license issued by a Wisconsin governmental body or unit, unless otherwise prohibited by state law.
4. Any identification card issued by an employer in the normal course of business and bearing a photo of the card holder, but not including a business card.
5. A real estate tax bill or receipt for the current year or the year preceding the date of the registration.
6. A residential lease (NOT for voters registering by mail).
  - a. A residential lease should contain:
    - i. Landlord Name
    - ii. Tenant Name
    - iii. Address Subject to Lease
    - iv. Term
    - v. Rent
    - vi. Landlord Signature
    - vii. Tenant Signature
7. A university, college or technical institute identification card (must include photo, address not required) with one of the following:
  - a. A fee payment receipt issued to the cardholder by the university, college, or technical college dated no earlier than 9 months before the date of the election.
  - b. A certified and current list of students who reside in housing sponsored by the university, college, or technical college.

- i. This list should be provided by the university, college, or technical college and the election official must verify that the student presenting the card is included on the list.
8. A utility bill (gas, electric, water, sewer, telephone/mobile, cable/satellite TV, internet, etc.) for the period commencing not earlier than 90 days before Election Day.
9. Bank statement. This includes:
  - a. A bank statement issued by a bank or credit union
  - b. A mortgage statement issued by a bank or credit union
  - c. A home equity credit line statement issued by a bank or credit union
  - d. A credit card statement issued by a bank or credit union
  - e. A retail store credit card statement
10. Paycheck or paystub documentation of direct deposit.
11. A check or other document issued by a unit of government.
  - a. Units of government include: federal, state, county, municipal, school district, tribal, etc., both foreign and domestic.
  - b. Examples of government documents (not an exhaustive list):
    - i. Vehicle registration
    - ii. BadgerCare/Medicare statements (if issued by gov't agency)
    - iii. Social Security statements (if issued by gov't agency)
    - iv. Public school correspondence
    - v. Federal student loan notices (if issued by gov't agency)
    - vi. Change of Address letter from the U.S.P.S.
    - vii. Government-owned medical facilities, such as UW Hospitals and Clinics, county-owned health care clinics and VA Hospitals
12. A signed letter on public or private social service agency letterhead identifying a homeless voter and describing the individual's residence for voting purposes.
13. A contract or intake document from an occupant of a residential care facility that specifies that the occupant currently resides in the facility. A room number is not required.



Wis. Stat. § 6.34.

*Electronic Proof of Residence*

1. Otherwise valid proof of residence documents presented electronically on a device such as a laptop, smartphone, or tablet are acceptable for voter registration purposes.<sup>1</sup>
  - a. The standard of review should be the same whether the document is physically presented to an election official or viewed in an electronic format.
  - b. Election officials may NOT reject an otherwise valid proof of residence merely because it is in an electronic format.
  - c. If the proof of residence is presented using the registrant's electronic device, the election official may ask the registrant to expand the size of the type or image, or otherwise navigate the document or image so that the election official may view any required information (i.e., name of the registrant, address, account number, date, type of document, and issuing entity or institution).
  - d. If the document is not readable in the format presented or the election official is otherwise unable to determine that it constitutes a valid proof of residence, the election official may reject the document and require the registrant to present another form of proof of residence.
2. Election officials are not required to provide computers or Internet access for voters to use to obtain electronic copies of proof of residence to facilitate voter registration. It is the responsibility of the registrant to show or provide a copy of their proof of residence.
3. Election officials are not required to handle a registrant's electronic device but may do so with the registrant's permission.

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<sup>1</sup> On August 28, 2012, the G.A.B. voted unanimously to allow electronic versions of acceptable proof of residence during the voter registration process.

## *Military and Overseas Voter Registration Requirements*

Military and permanent overseas voters are subject to special procedures for voter registration and are the only types of voters that are not required to provide proof of residence. Temporary overseas voters are required to provide proof of residence. All military and overseas voters and any absentee ballots issued to them must be tracked in the Statewide Voter Registration System (WisVote).

### 1. Military Electors (applies only to absentee voting)

- a. A “military elector” is a member of the U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine of the United States, Peace Corps, the commissioned corps of the Federal Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States, and any spouse and dependents of the above who are residing with or accompanying them. Wis. Stat. § 6.22(1)(b).
- b. Military electors, under state law, are not required to register to vote when voting absentee. Clerks practically must still obtain sufficient information to enter a military elector into WisVote. Wis. Stat. § 6.22(3).

This information can be obtained from the Federal Post Card Application (FPCA) form, which serves as both a voter registration application and an absentee ballot request. Therefore, by requesting an absentee ballot, a military elector practically undergoes registration. It is important to note, however, that under the law, military electors are not required to register to vote. Wis. Stat. § 6.22(2)(4)c.

### 2. Permanent Overseas Electors

- a. A permanent overseas elector is a United States citizen, 18 years or older, who resided (or whose parent resided) in Wisconsin before leaving the United States, and who is now living outside the U.S. with no present intent to return, and not registered to vote in any other location.

- b. Permanent overseas electors must register to vote during open registration. An overseas elector may use the Federal Post Card Application (FPCA) form which serves as both a voter registration application (during open registration) and an absentee ballot request for overseas electors.

The Federal Post Card Application (FPCA), also known as Standard Form 76 (SF 76), is a postage-free postcard, printed and distributed by the U.S. Department of Defense – Federal Voting Assistance Program (FVAP) for use by absentee voters covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The FPCA is a combination registration form and absentee ballot request. The online version of the FPCA can be obtained from the FVAP website at <http://www.fvap.gov>. Wis. Stat. § 6.24(3).

Permanent overseas electors are NOT required to provide proof of residence. Wis. Stat. § 6.22(3).

### 3. Temporary Overseas Electors

- a. A temporary overseas elector is a United States citizen, 18 years or older, who at the time of the request resides overseas but qualified as a Wisconsin resident, has an intent to return to Wisconsin and is not registered to vote in any other location.
- b. Temporarily overseas electors must register to vote during open registration. An overseas elector may use the Federal Post Card Application (FPCA) form which serves as both a voter registration application (during open registration) and an absentee ballot request for overseas electors.

The Federal Post Card Application (FPCA), also known as Standard Form 76 (SF 76), is a postage-free postcard, printed and distributed by the U.S. Department of Defense – Federal Voting Assistance Program (FVAP) for use by absentee voters covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The FPCA is a combination registration form and absentee ballot request. The online version of the FPCA can be obtained from the FVAP website at <http://www.fvap.gov>. Wis. Stat. § 6.24(3).

Temporarily overseas electors ARE required to provide proof of residence.

## *Confidential Electors*

Electors who are victims of domestic abuse, sexual assault, or stalking have the option to be listed confidentially on poll lists.

### *Eligibility*

An individual is eligible for a confidential listing in the poll list if the person:

1. Has been granted a protective order that is in effect related to either domestic abuse or harassment.
2. Is a victim of domestic abuse, sexual assault, or stalking where a person has been charged with or convicted of such an offense and the victim reasonably continues to be threatened by that individual.
3. Resides in a shelter.
  - a. “Shelter” means a place where at least 4 unrelated individuals reside that provides residential shelter to individuals whose personal security is or may be threatened by family members or other persons with whom the individuals have had contact.
4. Received services from a domestic abuse or sexual assault victim services provider within the last 24 months.
  - a. The WEC regularly receives lists of eligible domestic abuse or sexual assault victim services providers. Please contact the WEC Help Desk for a copy of the list.

Wis. Stat. § 6.47(1).

### *Request for Confidentiality*

An eligible person may request a confidential listing by submitting a written request or Request for Confidential Listing (EL-146) to their municipal clerk along with one of the following:

1. A copy of a protective order that is still in effect.

2. A completed Affidavit of Sheriff, Chief of Police, or District Attorney (EL-147), dated within 30 days of the date of the request.
3. A statement signed by the operator or an authorized agent of the operator of a shelter that is dated within 30 days of the date of the request, which indicates that the operator operates the shelter and that the individual making the request resides in the shelter.
4. A statement signed by an authorized representative of a domestic abuse victim service provider or a sexual assault victim service provider that is dated within 30 days of the request.
5. Confirmation from the Department of Justice that the requester is a participant of the *Safe at Home* program.

An individual with physical disabilities who appears personally at the clerk's office and accompanied by another elector of Wisconsin may designate the other elector to make a request for confidentiality on their behalf.

Wis. Stat. § 6.47(2).

A confidential elector must still register to vote the same as any other elector.

If the individual provides the necessary documentation to obtain a confidential listing, the clerk issues an Identification Card of Protected Individual (EL-148) to the protected individual and notes the identification serial number on the voter registration form in the space provided. The ID serial number is the HINDI number assigned to the municipality plus a sequential number e.g., "13251-01." Note: The Identification Card of Protected Individual (EL-148) is not available on the WEC website and can only be obtained by contacting the Wisconsin Elections Commission. Wis. Stat. § 6.55(2)(3)cm.

#### *Polling Place Procedure*

1. The confidential portion of the poll list will appear at the end of the poll list as a separate section containing the name of each confidential voter and their confidential voter identification number.
  - a. The confidential portion of the poll list is NOT open to public inspection. Wis. Stats. §§ 6.87(6m), 6.47(2).

- b. The municipal clerk may, upon request, disclose the existence of the list, the number of electors whose names appear on the list, and the number of those electors who have voted at any point in the proceedings. Wis. Stat. § 7.41(4).
2. The confidential voter presents their confidential voter identification card instead of announcing their name at the polling place. Wis. Stat. § 6.79(6).
3. The confidential voter must still sign the poll list before being issued a ballot.
4. If voting by absentee ballot, the confidential elector provides their name and confidential elector identification number on the absentee certificate envelope. The confidential elector must still sign and have a witness sign the certificate envelope.

### *Recordkeeping*

1. The confidential elector's voter registration should be kept in a separate confidential file, ordered alphabetically by confidential elector name. Wis. Stat. § 6.35(1m).
2. Confidential listings expire when any of the following occur:
  - a. When the protective order expires. Wis. Stat. § 6.47(4)(a).
  - b. When the confidential elector no longer resides in a shelter. Wis. Stat. § 6.47(4)(a).
  - c. When updated information is received from a sheriff, chief of police, or district attorney that indicates the person is no longer qualified for a confidential listing. Wis. Stat. § 6.47(5)(a)1.
  - d. 24 months have passed since the creation/renewal of the confidential listing. Wis. Stat. § 6.47(4)(a).
  - e. The voter changes their name or address. Wis. Stat. § 6.47(5)(a) 2, 3.
3. When a confidential listing expires, the clerk shall change the registration of the confidential elector to inactive unless the confidential elector files a new

request for a confidential listing or applies and qualifies for a non-confidential voter registration. Wis. Stat. § 6.47(6).

- a. Inactive confidential voter registrations must be kept confidential until destroyed under Wis. Stat. § 7.23(1)(c).
4. If the municipal clerk has notice that a confidential listing is scheduled to expire (end of the 24-month period), the clerk shall provide 30 days' notice to the confidential elector of the scheduled expiration of the listing. Wis. Stat. § 6.47(7)(a).
- a. If advance notice is not possible, the clerk shall notify the confidential elector upon changing their voter registration to inactive. Wis. Stat. § 6.47(7)(b).

### *Document Retention Requirements*

All voter registration forms are retained for four years after a voter has been inactivated or cancelled in the statewide voter registration system (WisVote). There is no need to notify an elector when the physical form is destroyed. Voter notification occurs at the point of inactivation in WisVote. Mailings (and details regarding which situations require elector notification) can be generated by or in conjunction with WisVote. Voters are only cancelled when deceased or confirmed as registering out of state. A mailing is not required for cancelled voters.

### Absentee Voting

A qualified elector who is unable or unwilling to appear at the polling place on Election Day may vote by absentee ballot. Wis. Stat. § 6.85(1).

The Commission is permanently prohibited and enjoined from advising, guiding, instructing, publishing, or otherwise communicating information to Wisconsin municipal clerks and local elections officials that clerks or local election officials have the duty or ability to modify or add information to incomplete absentee ballot certifications. *White et al v. Wis. Elections Comm'n et al* (2022CV1008, October 3, 2022). If a clerk believes that an absentee ballot has an improperly completed certificate, the clerk should determine whether to follow the steps laid out in § 6.87(9), if applicable.

### *General Application Requirements*

Registered electors wishing to vote absentee must submit an absentee ballot request in writing to the municipal clerk.

A registered elector may either apply for an absentee ballot using the Application for Absentee Ballot (EL-121) form or submit a written request, as long as the request includes all the information necessary to provide the voter with an absentee ballot.

The written request must include the elector's:

1. Name
2. Residential address
3. Mailing address, if different than residential address
4. Signature
5. Proof of identification, if necessary

State law provides that an absentee ballot request submitted by a voter via fax or email does not have to contain the signature of the voter to be valid. The voter's signature on the absentee certificate envelope satisfies the signature requirement. Wis. Stat. § 6.86(1)(ac).

Once provided with a by mail application, the elector is exempt from subsequent proof of identification requirements for by mail voting until they change their name or address. Wis. Stat. § 6.87(4)(b)(3).

If an absent elector does not indicate the desired duration of the absentee ballot request, the clerk should presume the request is only for a single election.

#### *Powers of Attorney (POA)*

A Power of Attorney (POA) may submit an absentee request on behalf of their principal. However, a POA may NOT vote the ballot for their principal. A POA may serve as an assistant in all the same ways that any person may serve as an assistant (voter registration, completing the ballot, etc.) if the voter so requests. Wis. Stats. §§ 6.86(1)(a)(3), 6.86(3).



## *By Mail Requests*

1. Any registered elector may submit their absentee ballot request by mail.
  - a. If absentee ballots are currently available, the municipal clerk must send the absent elector a ballot within one business day of receiving the request.
  - b. If an absentee request is delivered by a person other than the registered elector (spouse, campaign volunteer, etc.) it is treated as a by mail request.
  - c. The deadline to receive a request by mail is:
    - i. Regular electors have until 5:00 p.m. on the 5<sup>th</sup> day (Thursday) preceding the election. Wis. Stat. § 6.86(1)(b).
    - ii. Most military and indefinitely confined electors have until 5:00 p.m. on the 4<sup>th</sup> day (Friday) preceding the election to make a request. Wis. Stat. § 6.86(1)(c).
    - iii. Hospitalized and sequestered juror electors have until 5:00 p.m. on Election Day to make a request. Wis. Stat. § 6.86(1)(b).
    - iv. Members of a uniformed service or the Merchant Marine of the United States (and their spouse and dependents) who are away from their primary residence due to active duty have until 5:00 p.m. on Election Day to request an absentee ballot. (Federal elections only). Wis. Stat. § 6.86(1)(c).
2. Registrants who submit an absentee ballot request by mail and fail to provide a copy of proof of identification when required should be advised in writing that a ballot will not be mailed to the voter until their ID is submitted.
  - i. The EL-127 is a customizable template letter that a clerk should send to a voter who has not submitted proof of identification with their absentee ballot request when required.

- ii. Any insufficiency must be received by the clerk no later than 5:00 p.m. on the 5<sup>th</sup> day (Thursday) preceding the election or delivered by the voter no later than the close of in-person absentee voting in the clerk's office before the election or the elector can vote on Election Day at the polls.

### *Facsimile and Email Requests*

1. Any registered elector may make a written application for an absentee ballot by means of fax or email.
  - a. Fax or email requests do NOT need to contain a copy of the applicant's original signature.
  - b. The municipal clerk must act on the fax or email request within one business day of receiving the request.
2. Facsimile and email requests otherwise follow the rules for by-mail requests, including providing proof of identification, if required.

Wis. Stat. § 6.86(1).

### Absentee Ballot Certificate Envelopes (EL-122, EL-122M, EL-122SVD, EL-122SP)

There are four variations of the Absentee Ballot Certificate Envelope:

1. EL-122 Standard Absentee Certificate Envelope, used in most situations.
2. EL-122M Absentee Certificate Envelope, used for military and permanent overseas voters.
3. EL-122SVD, used for absentee voting conducted by Special Voting Deputies in residential care facilities and retirement homes.
4. EL-122SP, used for voters in SVD-eligible facilities that are not served by SVDs.

### **Overview of the Absentee Certificate Envelope**

Step 1: The clerk or voter must complete the voter information section. The information can be provided using a label or handwritten.


Official Absentee Ballot Certificate & Application			
<b>CLERK OR DEPUTY &gt;&gt;</b> Initial Here >>		In-person absentee voter showed valid POI _____	Voter exempt from or met POI requirement _____
<b>STEP 1 CLERK OR VOTER must complete this part</b>			
<b>Voter Information</b>			Election Date (mm/dd/yyyy) _____ / _____ / _____
<input type="checkbox"/> City Name: <input type="checkbox"/> Village Name: <input type="checkbox"/> Town Name:			
Name (Last, First, Middle) _____			
Street Address _____			
County _____		City _____	
State _____	Zip _____	Ward _____	Ald. Dist _____

Step 2: The voter must complete the certification section by signing where highlighted. If the voter needed assistance signing their name to the certification, the assistor signs the voter's name and signs their own name below in the assistor's field.

STEP 2 VOTER must complete this part	
I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that:	
<ul style="list-style-type: none"> <li>• I am a resident of the ward or of the aldermanic district of the municipality in the county of the state of Wisconsin indicated hereon OR I am entitled to vote in the ward or aldermanic district at the election indicated hereon</li> <li>• I am not voting at any other location in this election</li> <li>• I am unable or unwilling to appear at the polling place in the ward on Election Day, or I have changed my residence within the state from one ward to another less than 28 days before the election</li> <li>• I displayed the ballot unmarked to the witness and in the presence of no other person marked the ballot and enclosed and sealed it in this envelope in a manner that no one but myself and an assistant under s. 6.87 (5), if I requested assistance, could know how I voted</li> <li>• I requested this ballot and this is the original or a copy of that request</li> </ul>	
<b>X</b>	
<b>Voter Signature</b>	
<b>Certification of Assistant</b> (if applicable) I certify that the voter is unable to sign their name due to a disability and that I signed the voter's name at the direction and request of the voter	
_____	
<b>Assistant Signature</b>	

**STEP 3 WITNESS must complete this part**

I the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that:



- I am an adult U.S. citizen
- The above statements are true and the voting procedure was executed as stated
- I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk).
- I did not solicit or advise the elector to vote for or against any candidate or measure

**X**

**Witness Signature**

**Witness Printed Name**

**Witness Address (Number, Street Name, City)**

**Absentee Certificate Envelope for Other Categories of Absentee Voters**  
 EL-122M for Military and Permanent Overseas Voters. In step 2 of this envelope, voters must include their date of birth. The witness is required to be an adult but does not have to be a U.S. citizen.

**STEP 2 VOTER must complete this part**

I certify, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), that:

- I am a resident of the ward or of the aldermanic district of the municipality in the county of the state of Wisconsin indicated hereon **OR** I am entitled to vote in the ward or aldermanic district at the election indicated hereon
- I am not voting at any other location in this election
- I am unable or unwilling to appear at the polling place in the ward on Election Day, or I have changed my residence within the state from one ward to another less than 28 days before the election
- I displayed the ballot unmarked to the witness and in the presence of no other person marked the ballot and enclosed and sealed it in this envelope in a manner that no one but myself and an assistant under s. 6.87 (5), if I requested assistance, could know how I voted
- I requested this ballot and this is the original or a copy of that request

**X**

**Voter Signature**

**Date of Birth**    /    /     
 (mm/dd/yyyy)

**Certification of Assistant** (If applicable)  
 I certify that the voter is unable to sign their name due to a disability and that I signed the voter's name at the direction and request of the voter

**Assistant signature**

EL-122SVD for use by Special Voting Deputies conducting absentee voting in residential care facilities and retirement homes. In step 3 of this envelope, the signatures and addresses of both SVDs are required in the witness section.

**STEP 3 SVD must complete this part**

**I the undersigned witness, subject to the penalties for false statements of Wis. Stat. § 12.60(1)(b), certify that:**

- I am an adult U.S. citizen
- I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk).
- I did not solicit or advise the elector to vote for or against any candidate or measure.
- I further certify that the name and address of the voter is correct as shown

<b>X</b>	<b>X</b>
<b>Deputy #1 Signature</b>	<b>Deputy #2 Signature</b>
<b>Deputy #1 Printed Name</b>	<b>Deputy #2 Printed Name</b>
<b>Deputy #1 Address (Number, Street Name, City)</b>	<b>Deputy #2 Address (Number, Street Name, City)</b>

EL-122SP for use by voters residing in SVD-eligible care facilities and retirement homes not served by SVDs. In step 4 of this envelope, the authorized representative of the care facility signs this section or the voter includes photo ID. The care facility representative may also serve as the witness.

**STEP 4 CARE FACILITY REP. must complete this part**

**I certify I am an authorized representative of the facility listed. I further certify that this facility is registered or certified as required by law, that the above voter is a resident, and I verify that the name and address of the voter described above are correct.**

**X**

**Care Facility Authorized Representative Signature**

**Name of Facility**

The Commission recommends that clerks provide the name of the care facility on the certificate before sending it to the voter to avoid a scenario where the authorized representative fails to include it on the certificate. If the clerk is a WisVote user, the name of the care facility should be input into Line 1 of the address field so that it can be generated on the sticker used for this certificate

envelope. If the clerk is not a WisVote user, the clerk should write the name of the care facility on the first line of the address field on the certificate envelope.

### *Absentee Ballot Returns*

Only the voter may lawfully return his or her completed absentee ballot, either by mail or in person to the office of the municipal clerk, subject to two exceptions. Wis. Stat. § 6.87(4)(b)(1); *Teigen v. Wis. Elections Comm'n*, 2022 WI 64, 59, 403 Wis. 2d 607, 976 N.W.2d 519.

First, pursuant to the Voting Rights Act, any Wisconsin voter who requires assistance with mailing or delivering their absentee ballot to the municipal clerk because of a disability must be permitted to receive such assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. *Carey v. Wis. Elections Comm'n*, 624 F. Supp. 3d 1020 (W.D. WI 2022).

Second, pursuant to section 6.86(3)(a)1., an agent may return a completed absentee ballot on behalf of a hospitalized voter by following the procedures required by that section.

When an election official is presented with an absentee ballot delivered in-person, the official may ask the following questions:

- Are you the voter? If not, then:
- Are you delivering the voter's ballot because the voter has determined that they require assistance returning their ballot due to their disability? If yes, then:
  - Are you someone other than the voter's employer, an agent of that employer, or an officer or agent of the voter's union? If yes, then the ballot can be accepted.<sup>2</sup>

### *Drop Boxes*

The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee

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<sup>2</sup> This guidance was approved by the Commission on September 6, 2022, and is available here: <https://elections.wi.gov/news/guidance-absentee-ballot-return-options>.

voting site. Wis. Stat. § 6.855; *Tiegen v. Wis. Elections Comm'n*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519.

### *In Person Requests*

1. In person absentee voting in the clerk's office or another designated absentee voting location may not begin any earlier than 14 days before an election. In-person absentee voting may not take place the Monday before an election.

The clerk must specify in the Type E Notice the hours during which they will be available to receive in person absentee requests. Wis. Stat. § 6.855(2).

2. Proof of identification must be presented. The clerk must initial the absentee certificate envelope indicating that the clerk has viewed acceptable proof of identification. Proof of identification must be presented by an elector each time they vote in person absentee in the clerk's office.

Wis. Stat. § 6.86(1)(ar).

3. The applicant does not need to fill out a separate written request if they only wish to vote absentee for the current election. The absentee certificate envelope doubles as an absentee request and certification when completed in person in the clerk's office.
4. Before issuing the ballot, the clerk must review the Ineligible Voter List to confirm that the elector is eligible to vote on the day of the election.
  - a. If the name of the elector appears on the list, the clerk shall inform the elector that the elector is ineligible to vote per Department of Corrections.
  - b. If the elector agrees that they are ineligible, the absentee application should be rejected and the voter registration inactivated.
  - c. If the elector maintains that they are eligible to vote in the election, the clerk shall make a reasonable effort to contact the WEC to verify the elector's felony status.
    - i. If WEC confirms the elector is eligible to vote, the clerk should document on the Absentee Ballot Log (EL-124) that they

confirmed the voter's status with WEC and then allow the elector to proceed to vote.

- ii. If WEC confirms that the elector is NOT eligible to vote or if the clerk is unable to contact the WEC, the clerk should:
  1. Give the elector the Ineligible Voter Information Sheet that explains to the elector what they need to do to resolve the issue with the Department of Corrections.
  2. Permit the elector to vote, but mark the Absentee Certificate Envelope (EL-122) as "ineligible to vote per Department of Corrections."

Wis. Stat. § 6.29(2)(am).

- d. On Election Day, the inspectors shall review the Ineligible Voter List and challenge the ballot if the name of the elector appears on the list and the clerk provides no contrary information (see Election Day Issues, Challenging Voters). Wis. Stat. § 6.92(1).
5. The absentee ballot is marked by the absent voter, and sealed in an Absentee Ballot Certificate Envelope (EL-122). The Absentee Ballot Certificate Envelope (EL-122) is completed and signed by the absentee voter, and witnessed by the municipal clerk or designated staff. The witness must sign and print their name and provide their office or home address. Wis. Stat. § 6.86(1)(b).
6. The ballot may not be taken from the clerk's office. Wis. Stat. § 6.87(3)(a).

Note Regarding the Witness's Printed Name: If an absentee certificate is missing the witness's printed name, the clerk should decide how to proceed because the Commission does not have a statutory role in receiving and accepting ballots from electors. If a clerk receives an absentee ballot with an improperly completed certificate, § 6.87(9) states that they may return the ballot to the elector whenever time permits the elector to correct the defect. A ballot may also be rejected under § 6.88(3)(b) if the "certification is insufficient." Statute directs that the absentee ballot certificate language appear in "substantially" the form listed in § 6.87(2), which includes a field for a witness's printed name, in addition to their signature. A clerk should determine whether a missing witness printed address renders the certification "insufficient" when determining if they should take action under § 6.88(3)(b).



## *Proof of Identification*

1. Subject to limited exceptions (see below), absentee electors are required to provide proof of identification with their absentee application. Wis. Stat. § 6.86(1)(ac).

**Note:** The limited exceptions to the identification requirement listed below do NOT apply to electors voting in the clerk's office or the polling place. All electors who vote in the clerk's office or the polling place must present acceptable proof of identification at that time. The only exception is confidential electors. Wis. Stat. § 6.86(1)(ar).

- a. Proof of identification is limited to one of the following:
  - i. A Wisconsin Driver License, even if driving privileges are revoked or suspended; can be expired but only since the last General Election.
  - ii. A Wisconsin DOT-issued Identification Card; can be expired but only since the last General Election.
  - iii. A Military ID card issued by a U.S. uniformed service; can be expired but only since the last General Election.
  - iv. A U.S. passport; can be expired but only since the last General Election.
  - v. A certificate of naturalization that was issued not earlier than two years before the date of an election at which it is presented.
  - vi. An unexpired WI Driver License receipt.
  - vii. An unexpired Wisconsin DOT-Issued Identification Card receipt.
  - viii. An identification card issued by a federally recognized Indian tribe in Wisconsin.

- ix. An identification card issued by a Wisconsin-accredited university, college or technical college.
- x. The card must contain the following:
  - 1. Student's name
  - 2. Student's photograph
  - 3. Date of issuance
  - 4. Signature of student
  - 5. Expiration date no later than two years after date of issuance
    - a. A school ID card does not have to include a proof of enrollment document if unexpired.<sup>3</sup>
    - b. If the school ID card is expired, it must be presented with a proof of enrollment document.<sup>4</sup>
    - c. Proof of enrollment documents include, but are not limited to, a fee receipt, class schedule or an enrollment verification form.
- xi. An unexpired Veterans Affairs ID Card
- xii. A temporary identification card receipt issued by Wisconsin DOT through the Identification Petition Process (IDPP) (valid for 60 days).

Wis. Stat. § 5.02(6m).

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<sup>3</sup> On July 29, 2020, the 7<sup>th</sup> Circuit Court of Appeals issued its mandate in the *One Wisconsin* decision and determined that students who present a qualifying unexpired student ID as proof of identification are not required to also provide a proof of enrollment document to meet the requirement. However, if a student presents a qualifying expired student ID as proof of identification, they must then provide a proof of enrollment document to meet the requirement.

<sup>4</sup> IBID

- b. The following groups may meet the proof of identification requirement by having another person certify the voter's identity on the absentee ballot certificate envelope instead of providing proof of identification with their application (Please refer to the "Special Categories of Absentee Voters" section below):
  - i. Indefinitely Confined Electors. Wis. Stat. § 6.87(4)(b)2.
  - ii. Electors residing in a facility served by Special Voting Deputies Wis. Stat. § 6.87(4)(b)5.
  - iii. Electors residing in a facility eligible for service by Special Voting Deputies (SVDs) but were not served by SVDs. Wis. Stat. § 6.87(6)(c).
- c. The following groups are exempt from the proof of identification requirement when voting via absentee ballot by mail, by email or fax:
  - i. Military electors. Wis. Stat. § 6.86(1)(ac).
  - ii. Permanent Overseas electors. Wis. Stat. § 6.86(1)(ac).
  - iii. Confidential electors. Wis. Stat. § 6.86(1)(ac).
  - iv. Electors who have previously provided proof of identification with a by-mail absentee request and have not re-registered. Wis. Stat. § 6.87(4)(b)3.

### *General Procedures*

- 1. As soon as official ballots are available and within one business day of receiving any subsequent requests, the clerk must send the official absentee ballot to all approved absentee ballot applicants. Wis. Stat. § 7.15(1)(cm).
  - a. An absentee application is considered received when it is delivered to the clerk's mailbox/email/fax machine. Clerks must check every day they have normal office hours for absentee applications and have a one business day turnaround time to send an absentee ballot to the voter.
  - b. The clerk initials the certificate envelope indicating that proof of

identification has been provided before sending the absentee ballot in the following situations:

- i. A copy of the proof of identification has been provided with the application or a previous application by mail, email or fax. Wis. Stat. § 6.86(1)(ar).
- ii. The elector is an indefinitely confined elector and the completion of the certification of witness will satisfy the proof of identification requirement. Wis. Stat. § 6.87(4)(b)2.
- iii. The voter is a military, permanent overseas or confidential elector. Wis. Stat. § 6.34(2).
- iv. The elector is served by Special Voting Deputies.
  1. The clerk initials the envelope after ensuring that both SVDs have signed the Certification of Witness section on the certificate envelope. Wis. Stat. § 6.87(4)(b)5.
- c. When the elector resides in an SVD-eligible facility not served by SVDs and has not applied as an indefinitely confined voter, the clerk checks the box indicating that proof of identification must be enclosed in the absentee certificate envelope or the “Certification of Care Facility Authorized Representative” section is completed on the EL-122SP. Wis. Stat. § 6.87(4)(b)5.
- d. Section 6.87(5) requires the authorized representative to certify that the facility or home is certified or registered as required by law. The certification language approved by the Commission on the EL 122 Special states: “I certify I am an authorized representative of the facility listed. I further certify that this facility is registered or certified as required by law...”

The Commission accordingly recommends that clerks provide the name of the care facility on the certificate before sending it to the voter to avoid a scenario where the authorized representative fails to include it on the certificate. If the clerk is a WisVote user, the name of the care facility should be input into Line 1 of the address field so that it can be generated on the sticker used for this certificate envelope. If

the clerk is not a WisVote user, the clerk should write the name of the care facility on the first line of the address field on the certificate envelope.

If the “Name of Facility” field is nonetheless blank when a clerk or election inspector receives the voted ballot back from the voter, see “Voter Correction of Incomplete Absentee Certificate Envelopes” on page 88.

- e. Before issuing an absentee ballot, the clerk must review the Ineligible Voter List to confirm that the elector is eligible to vote on the day of the election.
  - i. If the name of the elector appears on the list, the clerk shall:
    1. Make a reasonable effort to verify the elector’s felony status with the WEC.
      - a. If the WEC confirms the elector is eligible to vote, the clerk should document this on the Absentee Ballot Log (EL-124).
      - b. If the WEC confirms the elector is not eligible or the WEC cannot be contacted, continue below.
    2. Cancel the elector’s absentee application.
    3. Cancel the elector’s registration.
    4. Send the elector written notice that the elector is ineligible to vote per Department of Corrections (Felon Notice issued from WisVote) and that if the elector believes this action was taken in error, they must contact the clerk immediately.
      - a. With the written notice, the clerk should include a copy of the WEC’s Ineligible Voter Information Sheet explaining what the elector needs to do to resolve the issue with the Department of Corrections.

- ii. If the elector maintains that they are eligible to vote in the election, the clerk shall:
  1. Restore the elector's registration but mark it as "ineligible to vote per Department of Corrections."
  2. Restore the elector's absentee application but mark it as "ineligible to vote per Department of Corrections."
  3. Issue an absentee ballot to the voter but mark the certificate envelope as "ineligible to vote per Department of Corrections."
- iii. On Election Day, the inspectors shall review the Ineligible Voter List and challenge the ballot if the name of the elector appears on the list (see Election Day Issues, Challenging Voters) and there is no contrary instruction from the clerk.
  1. The election inspectors shall make a reasonable effort to contact the WEC to confirm an elector's felon status before challenging the absentee ballot.

Wis. Stat. § 6.29(2)(am).

2. The clerk must transmit an absentee ballot by email or fax to military or permanent and temporary overseas electors, if requested. Clerks may NOT transmit an absentee ballot by fax or email to a regular voter.
3. The clerk must initial all ballots issued in the endorsement section of each ballot under "Absentee ballot issued by." Wis. Stat. § 6.86(1)(ar).
4. Complete the Absentee Certificate Envelope (EL-122) by filling out the "Clerk Use Only" section with the date of the election, county, municipality, and district/ward information.
5. Place the following materials in an Absentee Carrier Envelope (EL-120):
  - a. Cover letter (optional).
  - b. Uniform Absentee Instructions (regular, military and overseas)
  - c. Ballot(s)

- d. Absentee Certificate Envelope (EL-122 or 122M) using the regular, FIM-A, FIM-B, or FIM-C version as appropriate. Contact your local post office if you are not certain of which to use.
  - e. The clerk must provide 1<sup>st</sup> class postage on the envelope addressed to the voter.
  - f. The clerk must provide 1<sup>st</sup> class postage on the certificate envelope if the ballot will be returned from within the United States. Wis. Stat. § 6.87(3)(a).
    - i. The clerk is not required to provide postage on certificate envelopes that will be returned from outside of the United States.
  - g. For military and overseas voters, use the postage paid envelopes; EL-120M mailer envelope and the EL-122M certificate envelope.
6. Mail the Absentee Carrier Envelope to the mailing address provided by the absentee elector within one business day of receiving the request. Wis. Stat. § 7.15(1)(cm).
7. The clerk maintains the Absentee Ballot Log (EL-124).
- a. The Absentee Ballot Log (EL-124) is used to track the events that occur during the absentee ballot process (e.g. application received, ballot issued, ballot canceled, 2<sup>nd</sup> ballot issued, ballot received, ballot counted, etc.)
  - b. The Absentee Ballot Log (EL-124) enables the clerk to track any problems with the absentee certificate envelope (missing certificate, voter signature, witness signature and address, or two SVD signatures) and communicate this information to the election inspectors so they can reject the ballot if the error is not corrected by 8:00 p.m. on Election Day. See “Voter Correction of Incomplete Absentee Certificate Envelopes” on page 88.
  - c. Municipal clerks who maintain their own WisVote data may also track absentee ballots and print ballot labels in WisVote.

- d. The Absentee Ballot Log (EL-124) is sent to the polling place with the absentee ballots on Election Day.
8. An absentee ballot is marked by an absent voter, and sealed in an Absentee Ballot Certificate Envelope (EL-122). The Absentee Ballot Certificate Envelope (EL-122) is then completed and signed by the absentee voter, witnessed by an adult U.S. Citizen, and mailed or delivered in person to the office of the municipal clerk. Wis. Stat. § 6.87(4)(b); *Teigen v. Wis. Elections Comm'n*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519. Note: The witness for absentee ballots completed by Military, Permanent and Temporary Overseas voters, must be an adult, but does not have to be a U.S. Citizen.
    - a. The witness must include their address. Note: The WEC may issue and distribute its guidance regarding the definition of ‘address.’ *White v. WEC*, (2022CV001008). See “Voter Correction of Incomplete Absentee Certificate Envelopes” on page 88.
    - b. The witness must include their printed name If an absentee certificate is missing the witness’s printed name, the clerk should decide how to proceed. If a clerk receives an absentee ballot with an improperly completed certificate, § 6.87(9) states that they may return the ballot to the elector whenever time permits the elector to correct the defect. A ballot may also be set aside for rejection under § 6.88(3)(b) if the “certification is insufficient.” Statute directs that the absentee ballot certificate language appear in “substantially” the form listed in § 6.87(2), which includes a field for a witness’s printed name, in addition to their signature. A clerk should determine whether a missing witness printed name renders the certification “insufficient” when determining if they should take action under § 6.88(3)(b). See also “Voter Correction of Incomplete Absentee Certificate Envelopes on page 88.”
      - a. **Litigation Note:** On July 20, 2023, a complaint was filed in the matter of *Priorities USA et al v. Wis. Elections Comm’n* (2023CV001900) in Dane County. The complaint seeks declaratory judgment that the witness requirement for absentee voting is invalid. As of December 2023, no judgement or order has been entered on the merits of this litigation. The *Priorities USA* matter is still being litigated, and this section of the manual will be updated and/or



supplemented consistent with further updates in that case, if any.

### *Caselaw Update: Return of Voted Absentee Ballots*

Subject to two exceptions, only the voter may lawfully return his or her completed absentee ballot, either by mail or in person to the office of the municipal clerk.

Wis. Stat. § 6.87(4)(b)(1); *Teigen v. Wis. Elections Comm'n*, 2022 WI 64, 59, 403 Wis. 2d 607, 976 N.W.2d 519.

#### Exceptions

First, pursuant to the Voting Rights Act, any Wisconsin voter who requires assistance with mailing or delivering their absentee ballot to the municipal clerk because of a disability must be permitted to receive such assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. *Carey v. Wis. Elections Comm'n*, 624 F. Supp. 3d 1020 (W.D. WI 2022).

Second, pursuant to section 6.86(3)(a)1., an agent may return a completed absentee ballot on behalf of a disabled voter by following the procedures required by that section.

When an election official is presented with an absentee ballot delivered in-person, the official may ask the following questions:

- Are you the voter? If not, then:
- Are you delivering the voter's ballot because the voter has determined that they require assistance returning their ballot due to their disability? If yes, then:
- Are you someone other than the voter's employer, an agent of that employer, or an officer or agent of the voter's union? If yes, then the ballot can be accepted.<sup>5</sup>

The use of drop boxes is not permitted unless the drop box is staffed by the clerk and located in the office of the clerk or a properly designated alternate absentee voting site. Wis. Stat. § 6.855; *Tiegen v. Wis. Elections Comm'n*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519. The office of the municipal

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<sup>5</sup> This guidance was approved by the Commission on September 6, 2022, and is available here: <https://elections.wi.gov/news/guidance-absentee-ballot-return-options>.

clerk means any physical area that is controlled by the municipal clerk in order to carry out their statutory duties.

### *Correcting Defective Absentee Certificate Envelopes*

#### Voter Correction of Incomplete Absentee Certificate Envelopes

**Disclaimer:** This section of the manual covers a clerk’s ability to return absentee ballots to voters under § 6.87(9), or to reject absentee ballots under § 6.88(3)(b) when there are defects on the certificate envelope. For information on a municipal clerk’s ability to return absentee ballots to electors under § 6.86(5) when the ballot is spoiled or damaged, see “Spoiling and Replacement Ballots” on page 92. **Be advised that these two sections of the manual are not interchangeable.**

Municipal clerks should make every effort to review absentee certificate envelopes as they receive voted absentee ballots from voters so that they can choose to exercise their authority under § 6.87(9) or § 6.88(3) ahead of Election Day.

The clerk should document any certificate errors on the Absentee Ballot Log (EL-124).

If the information on the absentee certificate envelope is incomplete, or if the certificate is missing, the clerk has two options for how to proceed, each of which is discussed further in the numbered sections below:

**(1) Returning the Ballot to the Voter** - Time permitting, they may attempt to return the ballot and incomplete certificate envelope to the voter for the voter to correct the defect; or

**(2) Setting Aside the Ballot for Rejection** – Rejecting a ballot is governed by Wis. Stat. 6.88(3)(b).

#### **(1) Returning the Ballot to the Voter – Wis. Stat. § 6.87(9)**

If the information on the absentee certificate envelope is incomplete, or if the certificate is missing, the clerk “may return the ballot to the

elector...whenever time permits the elector to correct the defect and return the ballot” so that the municipal clerk can cause the completed ballot to be delivered to the proper polling place by 8 p.m. on Election Day. Wis. Stat. § 6.87(9). Sec. 6.87(9) does not limit how a municipal clerk should “return the ballot” to the elector. A clerk should contact a voter directly (phone, email, or otherwise) to notify the voter that there is a defect with their certificate envelope so that the voter may take steps to correct the defect. Whenever time permits, a clerk may choose to return the ballot to the voter under § 6.87(9) by returning it by mail, or by returning it to the voter in person in the clerk’s office or at the polling place on Election Day.

It is incumbent upon the voter to “correct the defect.”

If necessary, a clerk may include a new certificate envelope to the voter when returning a ballot for a voter to correct pursuant to § 6.87(9).

If the ballot has been returned to the voter under § 6.87(9), the voter must ensure the corrected ballot is returned so it is delivered to the polling place no later than 8 p.m. on Election Day. If a municipal clerk returns a ballot to a voter pursuant to § 6.87(9) and the voter chooses not to return it with the defect corrected, the voter may still vote in person at the polls on Election Day, or vote in person absentee pursuant to § 6.86(1)(a)2.

### **Defect in Voter Information Section**

If the voter is correcting the original certificate envelope (to fill in a missing required field, for example), the original witness does not need to be present to witness the voter correcting the defect under § 6.87(9).

### **Defect in Witness Information Section**

If the witness address or witness signature is missing, the voter and their original witness may go together to the clerk’s office or polling place for the witness to correct the defect.<sup>6</sup> If the voter consents and communicates

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<sup>6</sup> **Litigation Note:** Litigation Note: The definition of “witness address” is the subject of ongoing litigation. In two cases, Rise Inc., et al v. Wis. Elections Comm’n et al (2022CV002446); League of Women Voters v. Wis. Elections Comm’n et al (2022CV002472), the Dane County Circuit Court issued decisions on January 2, 2024, and permanent injunctions on January 30, 2024. Both cases are on appeal as of February 2024. Refer to clerk communications “Permanent Injunction on WEC concerning Absentee Voter Witness Address Information in Rise, Inc., et al. v. WEC et al. (2022-CV-002446)” and “Permanent Injunction on WEC concerning Absentee Voter Witness Address

that consent to the clerk, the witness may go to the clerk's office or polling place for the witness to correct the defect in the witness information section. The clerk may not issue a new certificate envelope to the witness only—if a new certificate envelope is issued to allow a witness to correct a defect, the voter must also be present.

## Issuing a New Certificate Envelope

A new certificate envelope may be necessary if the voter or witness are unable to correct the defect on the existing envelope.

If the voter or witness corrects the certificate envelope in the clerk's office, the clerk may issue a new certificate envelope to the voter. Wis. Stat. § 6.87(9). An election inspector at the polls may issue a new envelope, if necessary, pursuant to the clerk's authority under § 6.87(9). If a new certificate envelope is issued and completed, the original defective certificate envelope must be destroyed, but still set aside to be accounted for later in the event of a recount.

If the municipal clerk has provided the voter with a new envelope, the voter must request that their original witness re-complete the witness portion of the absentee envelope. The original witness must be used in this case because they were the one who witnessed the voter marking, folding, and depositing the ballot into the envelope. A new witness cannot be used because there is no way for a new witness to witness the elector marking their ballot if an elector is attempting to correct a defect under § 6.87(9).

If the voter is correcting a defect and the clerk has issued a new certificate envelope, **the voter** should take the following steps:

- Open the original certificate envelope
- Verify their ballot
- The voter may NOT remove the ballot from the polling place or the clerk's office.
- Seal the ballot in the new certificate envelope and complete the certifications with their original witness.

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Information in *League of Women Voters of Wisconsin v. WEC, et al. (2022-CV-002472)* for further information on how the decisions and permanent injunctions provide explanation and definition of when a ballot may be rejected due to a defect in the witness address field. The manual will be updated to be consistent with the final appellate decisions in either or both cases.

If the voter corrects a defect of the certificate envelope, they may only correct the defect—they may not vote a new ballot.

The clerk or election inspector should document that a correction was made (and if the ballot was accepted on Election Day) on the Absentee Ballot Log (EL-124).

If any of the following occur, the defect will not be corrected by the voter, and the clerk should proceed to section (2) below:

- 1) There is not time for a clerk to attempt to return the ballot to the voter pursuant to § 6.87(9).
- 2) The clerk chooses not to attempt to return the ballot to the voter pursuant to § 6.87(9).
- 3) The clerk has attempted to return the ballot to the voter under § 6.87(9), but the voter has failed to correct the defect by 8 p.m. on Election Day.
- 4) The clerk has notified the voter of the defect in the certificate and the voter has not remedied the defect by 8 p.m. on Election Day.

## **(2) Setting Aside the Ballot for Rejection – Wis. Stat. § 6.88(3)(b)**

If a clerk, or election inspector, finds that a certificate is insufficient, they shall not count the ballot. Wis. Stat. § 6.88(3)(b).

If exercising authority under § 6.88(3), the clerk should label missing and no certificate envelope ballots as “To Be Rejected,” and keep them separate from the rest of the absentee ballots when delivering to the polling place. These ballots should be kept separate to allow the voter to correct any defects prior to 8 p.m. on Election Day.

After 8 p.m. on Election Day, if a ballot is rejected, an inspector must write “rejected, insufficient certificate” on the back of the ballot. Wis. Stat. § 6.88(3)(b). The rejected ballot should then be reinserted into the certificate envelope in which it was delivered, and securely seal both in an envelope marked for rejected absentee ballots. Wis. Stat. § 6.88(3)(b). All other procedures specified by § 6.88(3)(b) should always be followed when rejecting absentee ballots for any reason.

## *Spoiling and Replacement of Absentee Ballots*

**Disclaimer:** This section of the manual covers a municipal clerk’s ability to return absentee ballots to electors under § 6.86(5) when the ballot is spoiled or damaged. For information on a municipal clerk’s ability to return absentee ballots to electors under § 6.87(9) when the certificate is incomplete or missing, see “Voter Correction of Incomplete Absentee Certificate Envelopes” on page 88. **Be advised that these two sections of the manual are not interchangeable.**

If a clerk receives an absentee ballot that is spoiled or damaged from a voter, statute directs that the clerk shall issue a new ballot to the elector, provided there is enough time for the elector to properly return the ballot. Wis. Stat. § 6.86(5). The clerk must also believe that the first ballot was issued to or on behalf of the elector who is returning it, or that the first ballot was issued to a person with disabilities and on whose behalf the ballot is being returned. before issuing the second ballot. Wis. Stat. § 6.86(5). If the clerk issues a new ballot pursuant to § 6.86(5), the clerk should destroy the spoiled or damaged ballot. Wis. Stat. § 6.86(5). The spoiled or damaged ballot should be destroyed to the extent that it cannot be tabulated, but should still be preserved as a defective ballot per § 7.51(2)(b). If the clerk does not believe the person requesting the replacement ballot is the one to whom the original ballot was provided, the clerk should not issue the replacement ballot, document the incident for a subsequent challenge on Election Day under § 6.92, and contact law enforcement immediately.

A circuit court has recently concluded on a motion for summary judgment that there is no statutory authority for a clerk to return or spoil an otherwise complete, undamaged absentee ballot that was properly previously returned by an elector. *Kormanik v. WEC* (2022CV001395, Nov. 29, 2023). If an absentee ballot is complete and in totally acceptable condition and was properly returned in an unspoiled and undamaged state, “the statutes provide no basis upon which the voter may ever possess that ballot again.” *Kormanik*, at 13.

A voter who did not receive the replacement ballot, or chose not to return it, is able to vote in-person on Election Day.

## **When is a Ballot Returned**

The *Kormanik* circuit court decision concluded that the only way to read § 6.86(5) is that the spoiling or damaging were already done when the absentee ballot was returned. The circuit court concluded that a ballot that is not damaged or spoiled, and is otherwise complete, is “returned” when it arrives at the clerk’s office. The circuit court noted that § 6.88(1) “requires that upon arrival at the clerk’s office, the ballot shall be sealed in a carrier envelope and must be opened when and where election day votes are being cast...Once the clerk has that returned ballot, it is to be sealed until election day.” *Kormanik*, at 13. A reasonable interpretation of § 6.88(1) and *Kormanik* is that a ballot is returned when it is in possession of the clerk.<sup>7</sup>

## **How the Request is Made**

If the voter returns an absentee ballot that is already spoiled or damaged to the municipal clerk, the voter’s request for a replacement ballot under § 6.86(5) must be made within the applicable statutory timeframe for *requesting* an absentee ballot. Wis. Stat. § 6.86(5) (cross-referencing § 6.86(1) and (3)(c)). The elector may vote the replacement ballot at the clerk’s office during in-person absentee voting under those procedures, or may vote the ballot under the usual absentee return procedures in § 6.87(4)(b)1.

1. The municipal clerk ensures that each absentee ballot is delivered to the correct polling place or alternate ballot site on Election Day no later than 8:00 p.m. Wis. Stat. § 6.87(6).
2. If the clerk receives an absentee ballot from an elector who is recorded as voting on Election Day, the clerk should mark the ballot “To Be Rejected” and set the ballot aside for processing by the Municipal Board of Canvassers. The clerk should also contact law enforcement immediately.

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<sup>7</sup> As of the date of the manual, the *Kormanik* matter is still open. To the extent necessary, the manual will be further updated.

3. If an elector with a calendar year request does not return a ballot for an election, the absentee request is cancelled and the absentee elector should be notified by mail within 5 days, if possible. Wis. Stat. § 6.86(2)(b).

## Special Categories of Absentee Voters

**There are additional procedures for various special categories of voters.**

### *Indefinitely Confined Electors*

1. An elector who is indefinitely confined because of age, physical illness or infirmity, or is disabled for an indefinite period may sign a statement to that effect and request that absentee ballots be sent to the elector automatically for every election until such time as the elector fails to return a ballot.

- a. The Application for Absentee Ballot (EL-121) contains a space for the voter to indicate they qualify as indefinitely confined.

**Note:** The completion of the certification of witness satisfies the proof of Identification requirement for indefinitely confined electors.

- b. The envelope containing the indefinitely confined elector's ballot should be clearly marked "return service requested."
- c. If an indefinitely confined elector does not wish to vote a ballot that has been sent to them, they should be directed to place the blank ballot in the certificate envelope and return it to the clerk's office.
- d. If an indefinitely confined elector fails to cast and return a spring, general or special election ballot, the clerk shall send a 1<sup>st</sup> class letter or postcard informing the voter that their name will be removed the list unless the voter applies for renewal within the 30-day period.
  - i. Notification letters can be generated from WisVote if using the absentee functionality.
  - ii. The voter is required to submit a renewal of their absentee request in writing, but a full Application for Absentee Ballot (EL-121) is not required.



2. The clerk shall remove from the indefinitely confined list the name of each person who:
  - c. Fails to cast and return an absentee ballot for a spring, general or special election and does not renew the application within 30 days.
  - d. Requests their name be removed from the list.
  - e. No longer qualifies for the service (upon receipt of reliable information).

Wis. Stat. § 6.86(2)(a) and (b).

### *Military & Overseas (Permanent and Temporary) Electors*

Military and overseas electors are covered by the federal Uniformed Overseas Citizens Absentee Voting Act (UOCAVA) as well as specific state laws. As such, they have a variety of special rules that apply to them to ensure that the elector will receive their ballot in time to vote from overseas.

### *Military and Overseas Absentee Applications*

The general procedure for military and overseas electors to request an absentee ballot is as follows:

1. Requests must be made in writing by one of the following methods:
  - a. The Application for Absentee Ballot (EL-121)
  - b. MyVote.wi.gov (see MyVote chapter)
  - c. The Federal Post Card Application (FPCA), also known as Standard Form 76. Regular voters who are temporarily overseas may also use this form. Wis. Stat. § 6.24(4)(b).
  - d. Any other written request (providing it gives all required information and is signed by elector). Fax or email requests are valid if received by the application deadline and do not require a copy of the applicant's signature. Wis. Stat. § 6.24(4)(a).

## 2. Military Electors

- a. State law provides that an individual who qualifies as a military elector is not required to register (although clerks need to obtain sufficient information to enter a military elector into WisVote). Wis. Stat. § 6.22(3).
- b. Military electors are exempt from providing proof of identification when voting absentee by mail. Wis. Stat. § 6.34(2).
- c. Military electors may request an absentee ballot for any specific election or for all elections within the calendar year of which the request was made, until the individual otherwise requests or until one of the following occurs:
  - i. The elector no longer qualifies for military status.
  - ii. The elector has registered to vote elsewhere.
- d. Military personnel seldom notify their municipal clerk when they are relocated or when they leave the military.
  - i. This often makes keeping up with the location of military electors difficult and frustrating.
  - ii. The Federal Voting Assistance Program's (FVAP) policy with respect to divulging information about military personnel status or location has become more stringent. In light of these difficulties, the Wisconsin Elections Commission has implemented the following policy with respect to military voters:
    1. The clerk is required to make an effort to determine the location or status of a military elector.
    2. The clerk must document what efforts were taken to determine the location or status of a military elector, and the results of those efforts.

3. The elector will be offered the opportunity to reapply for absentee ballots.

- e. A military elector may request an absentee ballot be transmitted via email or fax. The municipal clerk must comply with their request. Wis. Stat. § 6.22(2)(e).

### 3. Permanent Overseas Electors

- a. Permanent overseas electors are required to register to vote, but are not required to provide proof of residence. Wis. Stat. § 6.27.
- b. Permanent overseas electors are exempt from providing proof of identification when voting absentee by mail. Wis. Stat. § 6.34(2).
- c. An absentee ballot request from an overseas elector is effective for the calendar year in which the request was made. Wis. Stats. §§ 6.24(3), 6.24(4)(c).
- d. Overseas electors *only* receive ballots for federal offices (U.S. President, U.S. Senator, and Representative in Congress). Wis. Stat. § 6.22(5).
- e. An overseas elector may request an absentee ballot be transmitted via email or fax. The municipal clerk must comply with their request. Wis. Stat. § 6.22(4)(e).

### 4. Temporary Overseas Electors

- a. Temporarily overseas electors are required to register to vote and must provide proof of residence. Wis. Stat. § 6.27.
- b. Temporary overseas electors must provide proof of identification to request an absentee ballot.
- c. Temporary overseas electors may request an absentee ballot for any specific election or for all elections within the calendar year of which the request was made.
- d. Temporarily overseas electors receive the full ballot for an election, including local contests. Wis. Stat. § 6.22(5).

- e. A temporarily overseas elector may request an absentee ballot be transmitted via email or fax. The municipal clerk must comply with their request. Wis. Stat. § 6.22(4)(e).

### *Transmitting Absentee Ballots by Facsimile or Email*

The clerk must transmit an absentee ballot by email or fax to military, permanent overseas or temporary overseas electors, if requested. The clerk may NOT transmit an absentee ballot by email or fax to regular electors.

To transmit a ballot via fax or email, the clerk should take the following steps:

1. Initial the ballot in the endorsement section under “Absentee ballot issued by”.
2. Initial and indicate the page number and total number of pages (1 of 3, 2 of 3, etc.) in the upper-right corner of each side of the ballot that contains contests.
3. Complete the Absentee Certificate Envelope (EL-122 or EL-122M) by filling out the “Clerk Use Only” section with the date of the election, county, municipality, and district/ward information.
4. Fax or scan and send the following:
  - a. Cover letter (optional)
  - b. Uniform Absentee Instructions for military and overseas voters
  - c. Each side of the ballot
  - d. The face of the absentee certificate envelope (EL-122 or EL-122M)

### *Federal Write-In Absentee Ballot (FWAB)*

The FWAB is a write-in ballot that is only available to military and overseas electors. The FWAB is available at military posts, U.S. embassies, and consulates throughout the world. It may also be downloaded from the Federal Voting Assistance Program’s website (<http://www.fvap.gov>). Wis. Stat. § 6.25(1), (4).

The FWAB can be used for any elections/offices for which the elector is eligible to vote. However, if submitted by an overseas elector, the elector must have submitted a separate absentee request that is received no later than the 5<sup>th</sup> day before the election in order to count the FWAB. The FWAB counts as both an absentee request and write-in ballot for military electors and if an official absentee ballot has not already been sent to a military elector who submits a FWAB, the clerk should transmit an official absentee ballot to the elector as soon as possible.

### *Special Processing for Write-In Absentee Ballots*

1. If received by Election Day, the official absentee ballot supersedes any write-in ballot received from the elector.
2. Whatever ballot is received on Election Day is counted and all other ballots received after Election Day will be rejected.

### *Hospitalized Electors*

A hospitalized elector may certify that they cannot appear at the polling place on Election Day and appoint an agent to conduct the absentee ballot request/delivery process on the elector's behalf. Wis. Stat. § 6.86(3)(a)1, 2.

### *Procedure*

1. The hospitalized elector may not request a ballot by agent more than 7 days before an election or after 5:00 p.m. on Election Day. Wis. Stat. § 6.86(3)(c).
2. If the elector is not registered, the elector must complete a voter registration application and provide proof of residence. Wis. Stat. § 6.86(3)(a)2.
  - a. If the hospitalized elector is unable to sign the registration due to physical disability, they may authorize an assistant to sign on their behalf.
    - i. The assistant must also sign their name as the assistant and provide their address.
    - ii. The assistant need not be the agent.

The hospitalized elector must complete an absentee application and provide proof of identification. Wis. Stat. § 6.86(3)(b).

- b. The agent must provide their name, signature and address on the absentee application.
  - c. If the hospitalized elector is unable to sign the application due to physical disability, they may have an assistant sign the application.
    - i. The assistant must also sign their name as the assistant.
    - ii. The assistant need not be the agent.
- 3. The agent for the hospitalized voter delivers a completed absentee ballot application or the written equivalent to the municipal clerk for the hospitalized elector's municipality of residence. Wis. Stat. § 6.86(3)(b).
- 4. An agent must provide their own proof of identification before the municipal clerk may issue an absentee ballot to the agent. The clerk should ensure that the identification matches the information on the application. Wis. Stat. § 6.86(3)(b).
- 5. The municipal clerk issues an absentee ballot, absentee certificate envelope and uniform instructions in an absentee carrier envelope to the agent for the hospitalized elector. Wis. Stat. § 6.86(3)(b).
- 6. The agent transports the absentee ballot to the hospitalized elector. Wis. Stat. § 6.86(3)(c).
  - a. The hospitalized elector votes the ballot in the presence of a witness.
    - i. The agent or another designee of the elector may assist in filling out the ballot and should sign the ballot as the assistant.
  - b. The hospitalized elector places the voted ballot in the absentee certificate envelope, seals and signs the envelope.
  - c. The witness signs the envelope and provides their printed name and address.
    - i. The agent may serve as the witness.

The agent must deliver or mail the absentee certificate envelope. Wis. Stat. § 6.86(3)(c).

- a. In person delivery to the municipal clerk, to the polling place or a central count location, if there is one, must be done by 8:00 p.m. on Election Day.
- b. By mail delivery to the municipal clerk must be postmarked and received by Election Day.

### *Sequestered Jurors*

If an elector indicates in their written request for an absentee ballot that they are a sequestered juror, the following special procedures apply:

1. The municipal clerk must receive the sequestered juror's absentee request and proof of identification no later than 5:00 p.m. on Election Day.
2. If the application is received on or before 5:00 p.m. on the Friday before the election, the clerk may mail the absentee ballot to the sequestered juror.
3. If the application is received after 5:00 p.m. on the Friday before the election:
  - a. The clerk or the clerk's agent shall immediately take the ballot to the court in which the elector is serving as a juror and deliver the ballot to the judge.
  - b. The judge shall recess court, as soon as convenient, and give the elector the ballot.
  - c. The judge shall then serve as witness for the sequestered juror and return the voted ballot to the clerk or clerk's agent.

Wis. Stat. § 6.86(1)(b).

### *Occupants of Residential Care Facilities and Retirement Homes*

For information on the procedures for absentee voting in Wisconsin nursing homes, qualified community-based residential facilities, qualified retirement

homes, qualified retirement homes, qualified residential care apartment complexes and qualified adult family homes, please reference the “*Absentee Voting in Residential Care Facilities and Retirement Homes*” manual available on the WEC website. Wis. Stat. § 6.875.

#### *Alternate Absentee Ballot Site*

The governing body of a municipality may elect to designate a site to replace the office of the municipal clerk as the location from which electors of the municipality may request and vote absentee ballots. Wis. Stat. § 6.855(1).

1. The designated site shall be located as near as practicable to the office of the municipal clerk. Wis. Stat. § 6.855(1).
2. The governing body shall not later than 14 days prior to the time absentee ballots are available (47 days before each primary or election for national office, 21 days before each other primary or election) designate an alternate absentee ballot site. Wis. Stat. § 6.855(1).
3. The municipal clerk shall display notice of the alternate site in the office of the municipal clerk. Wis. Stat. § 6.855(2).
4. An alternate absentee ballot site shall be staffed by the municipal clerk or employees of the clerk. Wis. Stat. § 6.855(3).
5. An alternate absentee ballot site must be accessible to all individuals with disabilities. Wis. Stat. § 6.855(4).



## Absentee Ballot Request Deadlines

The following chart outlines the specific deadlines to request an absentee ballot that apply to different types of absentee voters.

<i>Applicant</i>	<i>How received</i>	<i>Type of Election</i>	<i>Deadline</i>
Regular – Specific Election Request	Mail/Email/Fax	All	Received by 5:00 p.m. on the 5 <sup>th</sup> day before the election – Wis. Stat. § 6.86(1)(b)
Regular – Calendar Year Request	Mail/Email/Fax	All	5:00 p.m. on the Friday before the election – Wis. Stat. §§ 6.86(1)(b), (2m)
Regular	In-person	All	Clerks may begin in-person absentee voting no earlier than 14 days before an election. Voting may not occur the Monday before the election.
Hospitalized	Mail/Email/Fax (By agent only)	All	Not earlier than 7 days before an election and not later than 5:00 p.m. on Election Day – Wis. Stat. § 6.86(3)(c)
Indefinitely confined	Mail/Email/Fax	All	5:00 p.m. on the Friday before the election – Wis. Stat. §§ 6.86(1)(b), (2)
Military (Not Away)	Mail/Email/Fax	All	5:00 p.m. on the Friday before the election – Wis. Stat. § 6.86(1)(c)
Military (Away)	Mail/Email/Fax	All elections that do not include a national office	5:00 p.m. on the Friday before the election – Wis. Stat. § 6.22(4)(b)
Military (Away)	Mail/Email/Fax	All elections for national office	5:00 p.m. on Election Day – Wis. Stat. § 6.86(1)(b)
Overseas	Mail/Email/Fax	All	5:00 p.m. on the 5 <sup>th</sup> day (Thursday) before the election – Wis. Stat. § 6.86(1)(b)
Sequestered Juror	Mail/Email/Fax	All	5:00 p.m. on Election Day – Wis. Stat. § 6.86(1)(b)
SVD facility occupant	By Special Voting Deputy	All	Received as part of a facility visit starting no later than 5:00 p.m. on the Monday before the election. Wis. Stat. § 6.875(6)(a).

## Securing and Transporting Voted Absentee Ballots

When an absentee ballot arrives at the clerk's office, or at an alternate site under § 6.855, the clerk shall enclose it, unopened, in a carrier envelope (EL-125) which shall be securely sealed and endorsed with the name and official title of the clerk. Wis. Stat. § 6.855. If a container such as a box is used to transport absentee ballots to the polling place, then that container must have the EL-125 attached and be properly sealed. Once the container or envelope has been sealed, it cannot be opened again until the container or envelope is in the same room where votes are being cast at the polls during polling hours on Election Day, or at a meeting of the municipal board of canvassers under § 7.52.

## Provisional Voting

In Wisconsin, provisional voting is ONLY used in two situations:

1. If an individual who attempts to register to vote at the polling place on Election Day has been issued a Wisconsin Driver License or Wisconsin DOT-Issued Identification Card, that is not expired or cancelled, even if driving privileges have been revoked or suspended, but is unwilling or unable to provide the license or state identification card number, and the lack of that number is the only missing item of information, the individual may vote provisionally.
  - a. The number is not required for a WI Driver License or DOT-Issued ID Card that has expired or been cancelled.
  - b. Wisconsin DOT/DMV maintains a Help Desk for individuals to call if they need to look up their WI Driver License or DOT-Issued ID Card number. The phone number is: (608) 266-1069, option 1.
  - c. Individuals who have an unexpired WI Driver License or DOT-Issued ID Card may NOT use the last four digits of their Social Security number to register.
2. If an elector is required to provide proof of identification and failed to provide the required proof of identification, they may vote provisionally.

- a. All voters on Election Day except for confidential voters are required to show proof of identification before receiving a ballot.
- b. If an individual is unable or unwilling to provide the required proof of identification at the polling place on Election Day, they may vote provisionally.

There is NO other situation in which provisional voting should be used. Provisional ballots are NOT given when a voter is at the wrong polling place. If a voter appears at the wrong polling place, they must be directed to the proper location. Provisional ballots are also NOT given when a person is attempting to register in-person at the polling place and cannot provide the required proof of residence.

Wis. Stat. § 6.97(1-4).

### *Procedure*

Once it is determined a voter will vote provisionally, the following procedures are required:

1. If the elector has been issued a provisional ballot due to failure to provide their Wisconsin Driver License or Wisconsin DOT-Issued ID Card number when registering, the election inspectors must still ask the elector to provide an acceptable form of proof of identification.
1. Every provisional voter must complete a Provisional Ballot Certificate Envelope (EL-123).
2. The voter completes the certificate envelope in the presence of at least one election inspector by providing:
  - a. Full name
  - b. Complete address, including municipality and county
  - c. Date of birth
  - d. Indication of U.S. Citizenship

- e. Date of election
  - f. Signature and date
3. The election inspector completes the certificate envelope by:
    - a. Signing and dating the certificate envelope.
    - b. Indicating the type of required information (either “WI Driver License/WI DOT-Issued ID Card Number” or “Proof of Identification”) by checking the appropriate box on the certificate envelope. More than one box may need to be checked.
  4. The election inspector issues a provisional voter number (PV#), which is recorded on the voter list. A voter number is NOT issued to the elector at this time and the elector does NOT sign the poll list.
    - a. This number is issued sequentially, starting with “1.”
    - b. The PV# is also recorded in six places:
      - (1) The back of the ballot
      - (2) On the Inspectors’ Statement (EL-104)
      - (3) On the Provisional Ballot Certificate Envelope (EL-123)
      - (4) On the Provisional Ballot Reporting Form (EL-123r)
      - (5) On the poll list or supplemental poll list
      - (6) On the Provisional Voting Information sheet for the elector
  5. The elector votes the ballot, seals the voted ballot in the Provisional Ballot Certificate Envelope (EL-123), and returns the sealed envelope to the election inspector.
  6. Election inspectors must provide the elector with the Provisional Voting Information Sheet.

7. The sealed certificate envelope (EL-123) is placed inside the Inspectors' Certificate for Provisional Ballots Envelope (EL-108).
  - a. The election inspectors record the name of the elector, the PV#, and the reason for the provisional ballot on the Provisional Ballot Reporting Form (EL-123r) and on the Inspectors' Statement (EL-104).
  - b. The Inspectors' Certificate of Provisional Ballots Envelope (EL-108) must be kept secure throughout Election Day.
  - c. When the polling place closes, the Inspectors' Certificate of Provisional Ballots Envelope (EL-108) must be secured in a separate ballot bag with a tamper evident serialized numbered seal. The serial number shall be recorded on the signed ballot container certification attached to the bag and on the Inspectors' Statement. The bag should be marked "Provisional Ballots."
8. An elector who was issued a provisional ballot may return to the polling place before 8:00 p.m. to provide the missing documentation to the election inspectors. Election inspectors shall review the provided documentation to determine if it is satisfactory.
  - a. If the provided documentation is not valid the election inspectors shall inform the elector and document the incident on the Inspectors' Statement (EL-104).
  - b. If the provided documentation is valid:
    - i. The elector must sign the poll or supplemental list.
    - ii. Note on the Inspectors' Statement (EL-104) that the elector provided the required documentation.
    - iii. Initial and date the Provisional Ballot Reporting Form (EL-123r) to indicate that the elector provided the required documentation.
    - iv. Election inspectors should offer the elector the option of spoiling the provisional ballot and voting a new ballot.

v. If the elector chooses to spoil the provisional ballot:

1. The Provisional Ballot Certificate Envelope (EL-123) is removed from the Inspectors' Certificate of Provisional Ballots (EL-108) envelope and given to the elector.
2. The elector should remove the provisional ballot and spoil it.
3. Document the incident and spoiled ballot on the Inspectors' Statement (EL-104).
4. The elector signs the poll list.
5. The elector is issued a sequential voter number, which is recorded on the poll list and noted on the Provisional Ballot Reporting Form (EL-123r) by marking "on poll list" in the column labeled "Voter Number Issued."
6. The elector is given a new ballot.

vi. If the elector chooses to cast the provisional ballot:

1. Note on the Inspectors' Statement (EL-104) and initial and date the Provisional Ballot Reporting Form (EL-123r) that the elector provided the required documentation.
2. Remove the elector's Provisional Ballot Certificate Envelope (EL-123) from the Inspectors' Certificate of Provisional Ballots (EL-108) envelope.
3. Verify that the Provisional Ballot Certificate Envelope (EL-123) has not been opened or tampered with.
  - a. If the Provisional Ballot Certificate Envelope (EL-123) has been tampered with, the election inspectors shall spoil the provisional ballot and instruct the elector to cast a new ballot.
4. The elector signs the poll list. If the municipality uses e-pollbooks, the elector signs the supplemental poll list.

5. The elector is issued a sequential voter number, which is recorded on the poll list and noted on the Provisional Ballot Reporting Form (EL-123r) by marking “on poll list” in the column labeled “Voter Number Issued.”
6. Provide the elector with the Provisional Ballot Certificate Envelope (EL-123) and instruct him or her to remove the ballot and place it in the ballot box or voting equipment.
7. Collect the used Provisional Ballot Certificate Envelope (EL-123) from the elector and place it back in the Inspectors’ Certification of Provisional Ballots (EL-108) envelope.

### *Processing*

1. A Provisional Ballot Reporting Form (EL-123r) must be completed by the election inspectors at the polling place listing all of the electors who cast a provisional ballot. The clerk must review the form and send a copy to both the county clerk and their WisVote provider if different after the close of polls on Election Day. The municipal clerk must keep a copy for their office. A blank Provisional Ballot Reporting Form is available on the agency website.
2. All electors who have been issued a provisional ballot must be tracked in WisVote on election night. WisVote must also be updated if/when an elector provides the missing information.
  - a. Self-Providers must enter the information into WisVote. Please see the WisVote Training Manual for details.
  - b. Reliers must provide the Provisional Ballot Reporting Form (EL-123r) to their Provider. Reliers must inform their Provider with updates if/when electors provide the missing information.
  - c. Providers must enter provisional ballot information into WisVote on election night on behalf of their reliers. Please see the WisVote Training Manual for details.
  - d. The ballot bag containing the provisional ballots must be secured in the municipal clerk’s office until they are delivered to the Municipal Board of Canvassers for processing.

3. Provisional ballots are not counted until the required information (either WI Driver License/WI DOT-Issued ID car number and/or proof of identification) is provided to either the election inspectors by 8:00 p.m. on Election Day, or to the municipal clerk or deputy clerk by 4:00 p.m. on the Friday after the election.
  - a. Municipal clerks must be available to receive the missing information from electors who have an outstanding provisional ballot through 4:00 p.m. on the Friday after the election:
    - i. Electors who need to provide their WI Driver License or WI DOT-issued ID Card number may provide the number:
      1. Over the phone
      2. By electronic transmission
      3. By delivery (not in-person)
      4. In-person
    - ii. Electors who need to provide proof of identification must provide their photo ID in-person.
  - b. Electors who provide their information after Election Day do not sign the poll list.
  - c. When an elector provides missing provisional information after Election Day, the municipal clerk must update the EL-123r with:
    - i. The type of provisional documentation provided
    - ii. The method used to provide the missing information
    - iii. The date and time the elector provided the missing information
    - iv. The clerk's name
  - d. WisVote must also be updated when an elector provides missing provisional information after Election Day.
4. If the person voting provisionally does not present the information to the municipal clerk by 4:00 p.m. on the Friday after the election the Provisional Ballot Certificate Envelope (EL-123) is not opened. Neither the voter nor



the ballot is counted as part of the Election Day results if the missing required information is not returned by the deadline.

5. The municipal clerk should maintain communication with the county clerk regarding the number of outstanding provisional ballots.
6. After the 4:00 p.m. deadline on the Friday following the election, the municipal clerk transmits an updated EL-123r to the County indicating which electors provided missing information.
7. The ballot bag containing the provisional ballots should only be opened during a meeting of the Municipal Board of Canvassers.
8. The Municipal Board of Canvassers will meet to count and tally the provisional ballots for which the elector has supplied the missing information.
  - a. The Board of Canvassers will assign a voter number to the elector starting with the last voter number issued on Election Day in the appropriate reporting unit.
  - b. The voter number is recorded on the EL-123r.
  - c. The votes cast on the provisional ballot are tallied on a Tally Sheet (EL-105).
  - d. A copy of the EL-123r and the tally sheets used at the Board of Canvassers is forwarded on to the other affected Boards of Canvassers.

Wis. Stat. § 6.97(1-4).

### Frequently Asked Questions

*1. Can persons convicted of a felony vote?*

A person who has been convicted of a felony may not vote until the term of their sentence, including probation or parole, has been served.

*2. What if a person moves away but indicates that they have the intent to return?*

So long as they have not registered to vote at the new municipality, they may retain their right to vote in the former municipality.

3. *What if the elector has recently moved to the municipality?*

Individuals who have moved within the state, but have resided at their new address fewer than 28 days must vote at the polling place that served their previous residence. Individuals who have recently moved to the state and resided at their address fewer than 28 days may vote for President and Vice President only by completing the Application for Presidential Ballot – New Wisconsin Resident (EL-141).

4. *If an individual is temporarily overseas, such as for school, are they considered an overseas elector?*

Yes. That individual is considered an overseas elector and is treated like any other UOCAVA voter.

5. *Can a spouse or family member request an absentee ballot on behalf of their relative?*

No. The clerk is required to obtain written request from each elector before issuing an absentee ballot.

6. *Can a voter take a ballot out of the clerk's office?*

No. An elector may NOT take the ballot out of the clerk's office. However, an absentee voter may obtain and cast a ballot inside the clerk's office during the in person absentee voting hours.

7. *Rather than returning a ballot to the clerk's office, can an absentee elector deliver the ballot to the polling place?*

Yes. If the absentee elector returns the ballot to the polling place, the election inspectors must indicate that the absentee ballot was hand-delivered on the Inspectors' Statement (EL-104) and Absentee Ballot Log (EL-124). In the case of a municipality that counts absentee ballots at a central location rather than the polling place, the voter must return their ballot there and not the polling place.

# ELECTION OFFICIALS

## Summary

An election official is defined as “an individual who is charged with any duties relating to the conduct of an election.” Wis. Stat. § 5.02(4e). County, municipal and school district clerks are election officials, as are election inspectors, chief inspectors, election registration officials (EROs), tabulators, greeters, and canvass board members. Election officials perform a very important public service by enhancing the high quality and integrity of our elections. It is important that you, as a municipal clerk, ensure there are qualified and well-trained individuals for these positions. Wisconsin Statute Chapter 7 prescribes the selection, training, and duties for election officials.

## Municipal Clerks

### *Appointment and Qualifications*

Municipal clerks are elected by the electors or appointed to their positions by the governing body of a given town, village, or city. For specific qualification and residency requirements, consult your municipal attorney.

### *Duties*

The municipal clerk’s election duties include, but are not limited to, supervision of elections and voter registration in the municipality, equipping polling places, purchasing and maintaining election equipment, preparing ballots and notices, and conducting and tracking the training of other election officials. The municipal clerk is responsible for conducting the election in his or her municipality. Wis. Stat. § 7.15.

A municipal clerk may register voters in his or her office on Election Day if located within the same building as the polling place with a resolution of the governing body.

### *Training Requirement*

Under Wisconsin law, each municipal clerk must attend training sponsored by the Wisconsin Elections Commission every two years. Wis. Stat. § 7.15(1m). In order to comply with this training requirement, municipal clerks must obtain six hours of training every two-year term, beginning January 1 of even-numbered years and ending on December 31 of odd-numbered years. EL 12.03(2).

All clerks must be initially certified by attending the Municipal Clerk Core Curriculum Training course, which counts as three hours of training toward the six hours required in any given term. Clerks always need to earn a minimum of six hours of training during the current term in order to recertify for the next term. EL 12.03(1), (2).

Clerks must report their election training and the number of hours to the WEC using the Municipal Clerk Recertification Reporting Form which is available on the WEC's website. WisVote users can enter their training directly into the system for review and approval by WEC staff. Training not reported using the form or entered into WisVote will not be counted towards recertification hours. Training "sponsored" by the WEC includes any training for municipal clerks that the WEC approves. This includes, but is not limited to, election trainings conducted by county clerks, online training presentations, and election administration or WisVote webinar sessions, either live or recorded. EL 12.03 (4), (5)

### Election Inspectors

Election inspectors, often referred to as "poll workers," staff the polling place on Election Day. Election inspectors' duties include setting up the polling place, preserving order, registering electors, recording voter numbers, issuing ballots, monitoring voting equipment, counting votes, and properly completing required forms. Wis. Stat. § 7.37.

Special note regarding election inspector appointments: It is the opinion of the Commission that election inspectors may not serve at elections where they, their spouse, or immediate family member is a candidate on the ballot or under other circumstances where a candidate's success or failure to win election would affect the election inspector financially. There may be other laws that specifically prohibit certain individuals from serving as election inspectors. Clerks are encouraged to check with their local municipal attorney if they have any questions as to whether a given individual may serve.

### *Number of Election Inspectors*

1. Each polling place should have seven inspectors.

The governing body may increase the number where more than one voting device is used or polling places are combined. Wis. Stat. 7.30(1)(a).

2. By ordinance, the governing body may provide for the selection of alternates or for the selection of two or more sets of inspectors to work at different times on Election Day. Alternate officials may be appointed to maintain adequate staffing of polling places. Wis. Stat. § 7.30(1)(a).
3. The governing body of the municipality may reduce the number of election inspectors by resolution. However, no polling place may have fewer than three election inspectors. Wis. Stat. § 7.32.

### *Qualification of Election Inspectors*

Election inspectors must meet the following criteria:

1. They must be nominated.

The two political parties whose candidates for governor or president received the largest number of votes in the previous general election may submit lists of election inspector nominees no later than November 30 of an odd-numbered year. When party lists are received, election inspector appointments must be made from them. When lists of election inspector nominees are not received from the political parties, appointments are made without regard to party affiliation. Wis. Stat. § 7.30 (4) (b).

As a municipal clerk, you should contact the appropriate statutory committee person or voluntary county party chairperson before the first week in November and advise him or her of their responsibility to submit a list of nominees to the Mayor, Village President or Town Board Chairperson. Do not hesitate to recommend election inspectors who have proven to be effective workers.

If the list of appointed election inspectors is emailed, Administrative Rule EL § 6.04(3) requires that, in addition, the signed original of the document must also be received, either postmarked or delivered by, the filing deadline.

### Determining Party Imbalance at Each Polling Place

- a. The party whose candidate for Governor President at the last general election received the most votes *at that polling place* (the “dominant” party) is entitled to one extra inspector.

- b. Determine party imbalance for each polling place in anticipation of receiving lists of inspector nominees from the political parties.

Example:

Republican candidate for governor received the most votes at the polling place at the last general election. Seven total inspectors are needed. Positions available: Four Republican positions and three Democratic positions.

- c. Positions identified as Republican and Democratic remain as such for the duration of the term.

When Lists are Received from One or Both Parties:

Clerks are advised to contact each party's nominees to confirm their willingness to serve before submitting the names to the governing body for appointment.

- a. Document any nominees not willing to serve and provide the Party those names.
- b. The clerk may also inquire as to willingness to serve as a chief inspector and arrange for training for those who are interested.

Note: Refusal to serve as a chief inspector is not grounds for nonappointment.

Appointments must be made from the lists submitted by the parties for as long as election inspector positions are available. If party lists have been timely received, positions must be filled from the lists until the names on those lists have been depleted.

- a. Nominees must be qualified electors of the county in which they reside.
- b. The lists may also designate individuals as first choice nominees, who must be appointed first. Wis. Stat. § 7.30 (4)(b)(1).
  - 1) First choice nominees may be designated by a symbol, such as a star, asterisk or checkmark.

- 2) If “first choice” is not indicated, but the names are numbered, they should be appointed in numerical order.
- 3) If the governing body has good cause not to appoint an individual whose name is submitted as a “first-choice” nominee, it may request the WEC authorize non-appointment, and may not decline to appoint such individual until receiving the WEC’s authorization. Wis. Stat. §7.30(4)(e).

Appointment of persons not appearing on the lists may only occur after the lists have been depleted. Note: The parties have sole discretion to determine nominee criteria.

When party lists are received, the clerk must adhere to “party imbalance” *at each polling place*. The dominant party is entitled to one more election inspector at that polling place than the other party.

Example: Five election inspectors are to be placed at a polling place. The Democratic candidate for governor or president received the most votes at the polling place at the last general election. This means that three positions are Democratic and two positions are Republican. The governing body appoints three names from the Democratic list and two names from the Republican list.

It is possible that the dominant party will differ between polling places in the same municipality.

If Lists are Received but are Insufficient:

If the Democratic and Republican parties’ lists are insufficient or the nominees decline to serve in the positions available for that party’s nominees, the remaining positions are filled without regard to party affiliation.

Example: Seven inspectors are to be placed at a polling place. The Republican candidate for governor or president received the most votes at the polling place at the last general election. This party imbalance gives the Republican Party the extra inspector so the ratio is four Republican positions to three Democratic positions. If sufficient lists from both parties were

submitted, four names would be appointed from the Republican list and three names would be appointed from the Democratic list. However, in this example there are only three names on the Republican list and no Democratic list was submitted. The governing body appoints the three Republican names and the Mayor, Village President or Town Board Chairperson nominates other qualified individuals, regardless of party affiliation, and submits the names to the governing body for appointment to the remaining four positions.

If the Democratic Party submitted a list with two names, the two Democratic nominees and two unaffiliated nominees would be appointed along with the three Republican nominees.

The parties may supplement their initial list of nominees at any time during the term. Wis. Stat. § 7.38.

If No Lists are Received:

If no lists are submitted, the Mayor, Village President or Town Board Chairperson nominates other qualified individuals, regardless of party affiliation, and submits the names to the governing body for appointment. All appointments are made without regard to party affiliation. Wis. Stat. § 6.875.

*Appointment of Inspectors by Governing Body*

Appointment of inspectors must occur no later than December 31<sup>st</sup> of an odd-numbered year. Wis. Stat. § 7.30 (4)(a).

- a. The clerk submits the party lists to the governing body.
  - 1) Advise the governing body of the requirement to appoint any first-choice nominees first.
  - 2) Advise the governing body if lists are insufficient so that unaffiliated inspectors may be nominated.
- b. The governing body must appoint at least as many inspectors as there are positions to be filled.



- c. Appointments are made from the party lists until each party's positions have been filled or until the lists are depleted.
  - d. If positions remain open and the lists have been depleted, "unaffiliated" inspectors may be appointed to the remaining positions.
  - e. Additional inspectors may be appointed as alternate.
2. Inspectors must be able to read, write and understand the English language. As municipal clerk, you may administer an examination, if required by the governing body, to all persons nominated as election inspectors to prove their ability to read, write and understand the English language, and their general knowledge of the election laws. Wis. Stat. § 7.30 (2)(c).
  3. Inspectors are required to receive training from the municipal clerk within the two years preceding the election event at which the inspector intends to work. Wis. Stat. 7.315 (b)(1).
  4. An inspector may not be a candidate for any office to be voted on at an election at which they serve. Wis. Stat. § 7.30 (2)(a).
  5. Election inspectors must be qualified electors of the county served by the polling place in which they work.
    - a. The chief inspector(s) must be a qualified elector of the municipality, except if a qualified candidate is not available. Wis. Stat. § 7.30 (2)(a).
    - b. A high school poll worker must be a resident of the municipality. Wis. Stat. § 7.30 (2)(am).
  6. The municipal clerk should identify any election inspectors appointed by one of the two major political parties. The chief inspector must ensure that any Election Day tasks which require completion by two election inspectors are represented by each party, whenever possible. Wis. Stat. § 7.30 (2)(a).

### *Term of Office*

Election inspector terms run from January 1 of an even-numbered year through December 31 of the subsequent odd-numbered year. Wis. Stat. § 7.31 (4).

### *Filling Vacancies*

Permanent vacancies in Republican or Democratic positions are filled by the municipal clerk from the remaining names on the lists submitted by the parties or from names submitted by the parties to supplement the original lists.

Wis. Stat. § 7.30 (2)(b), (4)(d).

Temporary vacancies created by a candidacy, illness or other temporary causes can be filled by the municipal clerk to serve for one election only.

1. A party that did not submit a list by November 30<sup>th</sup> may not submit a list of names after that deadline.
2. If there are no lists or the lists have been exhausted, the municipal clerk may fill the vacancy without regard to party affiliation.
3. If an unaffiliated inspector vacates his or her position, and the party entitled to that position has submitted supplemental names, the vacancy is filled from the supplemental list.
  - a. If no supplemental list has been submitted since the unaffiliated appointment was made, the clerk may fill the vacancy with another unaffiliated inspector.

### *Training Election Inspectors*

1. Election inspectors are required to attend training every two years and must have attended training within two years of any election at which they serve.
  - a. It is the responsibility of the municipal clerk to see that all election inspectors are provided with adequate training for the performance of their duties.
  - b. You may remove an inspector for failure to attend required training sessions.
  - c. Absence from training is neglect of duty, one of the grounds for dismissal.

2. The Wisconsin Elections Commission suggests, at a minimum, the clerk go over the Election Day duties listed in the Election Day manual.

Wis. Stat. § 7.315.

## Chief Election Inspectors

### *Designating a Chief Inspector*

The municipal clerk designates one of the inspectors as chief inspector for the polling place. This individual acts as liaison between the election inspectors and the municipal clerk and is in charge of the polling place on Election Day. The chief inspector must be a qualified elector of the municipality, except when no qualified candidate is available. The chief inspector is counted in the overall odd number of inspectors at the polling place. EL 11.01(1).

Although the municipal clerk ultimately designates the chief inspector, care should be taken to maintain the party imbalance.

1. If all positions at the polling place have been filled from party lists, clerks are encouraged to select one of the party appointees as the chief inspector.

**R R (R) D D      or      R R R (D) D**

2. If none of the party appointees are qualified as chief inspectors, select a qualified unaffiliated inspector. (Keep party representation even.)

**R R U D D**

3. If you have mixture of affiliated and unaffiliated inspectors, choose any qualified inspector.

4. If it is necessary to remove an inspector in order to insert a qualified chief inspector, replace an unaffiliated inspector if possible.

### *Chief Inspectors: Municipal Residents vs. County Residents*

Wis. Stat. §7.30(2)(a) indicates a preference for the CI to be a municipal resident, but offers an exception: "...each chief inspector shall be a qualified elector of the municipality in which the chief inspector serves. *If no qualified candidate for chief*

*inspector is available...the person so appointed need not be a qualified elector of the municipality...”*

Again, the municipal clerk chooses the chief inspector, but the statute confines the selection to municipal residents unless no qualified municipal resident is available. This requirement intertwined with the requirement to maintain party imbalance can be a challenge to implement.

It is recommended that you choose a chief inspector using the following priority order:

**1. Affiliated municipal resident**

If there is an affiliated inspector who is a resident of the municipality who is trained or willing to be trained as a CI, arrange for training and use for CI. Maintain party imbalance at the polling place.

**2. Unaffiliated municipal resident**

If no affiliated municipal resident is trained or willing to be trained as a CI, arrange for training of an unaffiliated municipal resident. If this means replacing an affiliated inspector, keep the party representation even.

**R R U D D**

**3. Affiliated resident of the county**

If there is no affiliated or unaffiliated municipal resident trained or willing to be trained as a CI, arrange for training a willing affiliated inspector who is a resident of the county.

**4. Unaffiliated county resident**

If there is no municipal resident or affiliated county resident trained or willing to be trained, arrange for training of a willing unaffiliated county resident. If this means replacing an affiliated inspector, keep the party representation even.

**R R U D D**

*Training of Chief Inspectors*

Chief inspectors are required to attend “Baseline” training in order to be initially certified. Attending Baseline training certifies the attendee as a chief inspector for the current term. In order to recertify for the following term, a chief inspector must attend at least six hours of Wisconsin Elections Commission approved continuing election education during the current term. (Attendance at Baseline training also

counts toward recertification for the following term.) Please see the agency website for a list of approved methods of accumulating hours toward recertification of chief inspectors. Wis. Stat. § 7.31(4). EL 11.02.

The county or municipal clerk conducting recertification training for other clerks or election inspectors must submit an agenda or course outline to the Wisconsin Elections Commission for approval. EL 11.03(3). Training hours of election inspectors are documented and tracked by the municipal clerk. Chief inspectors may be given a self-administered evaluation as part of training, the results of which will not affect the chief inspector's appointment or qualifications to serve. The results do not have to be reported to the WEC.

### High School Student Election Inspectors

State law permits certain qualified high school students to work at the polls on Election Day. Students must be enrolled in a public, private, tribal school, or private home-based educational program. Students may decide for themselves to serve as election inspectors or in response to a school sponsored initiative. Civics, government or political science teachers may see this as an opportunity for a real-life learning experience. Student organizations may find this to be an attractive form of community service and an interesting learning opportunity. Allowing students to work as election inspectors provides an opportunity for students to become involved in the election process and also offers clerks another resource for filling election inspector positions. Students with foreign language skills can serve at polling places where voters may need assistance understanding the ballot, voting equipment and other election-related materials. In many locations, Hmong and Spanish speaking voters need special assistance. Municipal clerks are encouraged to work with their local high schools to enable students to serve as election inspectors.

#### *Qualifications*

A student qualifies to serve as an election inspector if the student:

1. Is 16 or 17 years of age
2. Is enrolled in grades 9 to 12 in a public, private, tribal school, or private home-based educational program.
3. Has at least a 3.0 grade point average or the equivalent

4. Has the written approval of the student's parent or guardian
5. Has the written approval of the principal of the school in which the student is enrolled, if the student has less than a 3.0 grade point average
6. Is a resident of the municipality of the polling place at which he or she serves

### *Written Authorization*

Before a student may be appointed as an inspector, the municipal clerk shall obtain written authorization from the student's parent or guardian and from the principal of the school where the student is enrolled, if the student has less than a 3.0 grade point average. Upon appointment, the municipal clerk shall notify the principal of the school where the student is enrolled of the date of the election at which the student will serve.

### *Restrictions*

1. A student may only serve as an inspector at a polling place if at least one inspector, other than the chief inspector, is a qualified elector of the municipality
2. A student may not serve as chief inspector at a polling place
3. A student serving as an election inspector may not challenge any person offering to vote

Wis. Stat. § 7.30 (2)(am).

## Election Registration Officials (EROs)

### *Appointment and Qualifications*

Municipal Clerks may appoint Election Registration Officials to conduct voter registration at the polling place, at residential care facilities during the open registration period, and in the clerk's office during in-person absentee voting. An ERO must be a qualified elector of the county for the polling place, residential care facility or clerk's office at which they serve. However, a non-resident clerk or deputy clerk may serve as an ERO in case of a vacancy.

EROs are appointed to a two-year term, which runs from January 1 of an even-numbered year through December 31 of the subsequent odd-numbered year. The ERO is required to take the same training as election inspectors. If an ERO will be filling in for an election inspector (lunch, breaks, etc.), he or she must also be appointed as an election inspector.

### *Duties*

If appointed, EROs carry out the registration duties at the polling place on Election Day, in the clerk's office during in-person absentee voting and in residential care facilities during open registration. At particularly high-turnout elections, EROs ease the election inspectors' workload. Wis. Stat. § 6.28(1)(a).

### *Training Requirement*

EROs are required to receive training from the municipal clerk within two years of any election at which they serve and take an oath. It is the responsibility of the municipal clerk to see that EROs are provided with adequate training for the performance of their duties.

Wis. Stat. § 7.315 (4).

### Special Voting Deputies

Special Voting Deputies (SVDs) conduct absentee voting at certain care facilities. SVDs are one of the methods by which absentee voting may be conducted in qualified care facilities and retirement homes. Wis. Stat. § 6.875.

A person who is appointed an SVD must:

1. Be a qualified elector of the county
2. Must attend training
3. May not currently be employed by the facility
4. May not have been employed by the facility within two years of the appointment

5. May not be an immediate family member of anyone currently employed by the facility or employed by the facility within two years of the appointment

### *Selection and Appointment*

1. Nominations for special voting deputy positions may be submitted by the two dominant political parties at the same time as election inspector nominations are submitted. If no nominations are submitted, then the municipal clerk may appoint qualified electors of the municipality of his or her choosing, without regard to party affiliation.
2. The two deputies designated to conduct absentee voting at each facility should be affiliated with different political parties whenever possible.
3. SVDs are appointed by the municipal clerk for one election cycle.
4. At the discretion of the municipal clerk multiple pairs of SVDs may be assigned to conduct absentee voting at a care facility due to the size of the facility and/or large numbers of registered voters.

### *SVD Training*

Special Voting Deputies are required to attend training every two years, and must have attended training within two years of any election at which they serve. The Wisconsin Elections Commission has developed a manual for clerks to use to train Special Voting Deputies. The *Absentee Voting in Residential Care Facilities and Retirement Homes* manual is available on the agency website. Wis. Stat. § 7.315 (1)(a).

### Greeters and Tabulators

#### *Greeters*

Each municipality may appoint one additional inspector regardless of party affiliation to act as a greeter and substitute for other officials as necessary on Election Day. Greeters may not participate in the canvass after the polls close. Wis. Stat. § 7.30(1)(b).



## *Tabulators*

Not less than 30 days before an election, the governing body may, by resolution, authorize the municipal clerk to select and employ tabulators. Tabulators are to assist and be under the direction of the election inspectors after the polls close. Wis. Stat. § 7.30(3)(b).

## Oaths of Office

1. All election officials are required to take and file an oath.
2. Municipal clerks administer the oath of office at the time of appointment or at a training session to:
  - a. Election Inspectors (including Chief Inspectors)
  - b. Election Registration Officials
  - c. Special Voting Deputies
  - d. Greeters
  - e. Tabulators
3. The oath must be filed before the commencement of the official's duties.
4. The oath is valid for the entire two-year term of the appointment.
5. Substitute inspectors may be given the oath by another inspector, preferably the chief inspector, on Election Day at the polling place.
6. The following oaths may be obtained from the agency website or directly from the Wisconsin Elections Commission.
  - a. *Official Oath (EL-154)*: Filed by Election Inspectors, Chief Inspectors and Election Registration Officials , Greeters and Tabulators.
  - b. *Oath of Special Voting Deputy (EL-155)*: Filed by Special Voting Deputies.

Wis. Stat. § 7.30 (5).

## Removing Election Officials

As municipal clerk, you have the authority to dismiss an inspector summarily if he or she is found to lack the qualifications for the position, neglects his or her duties during an election, electioneers, or commits official misconduct. Wis. Stat.

§ 7.15(1)(f). However, in the interest of fairness, a hearing before the governing body is recommended before dismissal. Where it is found that an inspector has intentionally failed to properly endorse a ballot or intentionally given a voter a ballot not properly endorsed, that inspector should be suspended immediately by the chief inspector pending the filing of formal charges by the District Attorney. The chief inspector needs to inform the municipal clerk of such an action. The clerk fills the temporary vacancy for that election and schedules a hearing before the governing body to hear the case before taking final action.

## Frequently Asked Questions

1. *What if a trained election inspector is not available to work at an election, and I have to use an inspector who has not been trained within the last two years?*

In the event that a trained election inspector has an emergency and can't work on Election Day, an inspector who has not received training may be appointed to serve as an inspector, but not as a chief inspector, Election Registration Official or Special Voting Deputy. The appointment of an untrained individual is for a specific election only, and the untrained individual may only be appointed once in a two-year period. If the clerk is aware of the vacancy prior to Election Day, the clerk must provide some type of election training to the election inspector.

2. *What should I do if there is an emergency and I do not have a certified chief inspector?*

You should contact an Elections Specialist at the Wisconsin Elections Commission who will direct you on the actions to be taken. The Wisconsin Elections Commission recommends arrangements should be made to have alternate trained chief inspectors available in case of emergency.

3. *What is “Baseline” training?*

Baseline training is a two or three-hour chief inspector training course on basic election-day administration conducted by Wisconsin Elections Commission staff or WEC certified clerk-trainers. The Baseline class is also available online in the WEC Learning Center. Baseline training is required for initial certification as a chief inspector.

4. *I have a person who is interested in becoming a certified chief inspector. What does the person have to do to qualify as a certified chief inspector for the current term?*

The individual may accomplish certification by attending the Baseline training. Attendance at Baseline training will certify the new chief inspector for the current term. The newly certified chief inspector is eligible to serve at all subsequent elections during the current term.

5. *My chief inspector is certified for the current term. What else must he or she do in order to recertify for the next term?*

In order to recertify for the next term, the inspector will need to accumulate a minimum of six hours of Wisconsin Elections Commission approved training during the current term.



# VOTING EQUIPMENT

## Summary

The proper use and security of voting equipment is integral to ensuring accuracy and maintaining voter confidence in the electoral process. Voting equipment accuracy and security has long been an issue of extreme importance for both election officials and voters. Elector confidence in the equipment used to count votes is an aspect of elections administration which continues to grow in significance. Careful execution and documentation of the procedures detailed in this section will alleviate many concerns, ensuring that the voting equipment used in your municipality is reliable and accurate.

## Voting Equipment in Wisconsin

In the State of Wisconsin, not every municipality uses the same type of voting equipment. State law grants a certain amount of leeway when mandating voting equipment usage. This means that some municipalities use hand-count paper ballots, some use optical scan equipment, and some use direct recording electronic (DRE) equipment. Many municipalities use a combination of these equipment types.

1. Municipalities with a population of 7,500 or more are required to use electronic voting equipment in every ward in every election. Wis. Stat. §5.40(1). Electronic voting equipment is equipment that tabulates votes electronically and includes both optical scan and DRE. Wis. Stat. §5.02(1c), (24g), (24w)(a). Ballot marking devices, such as the AutoMARK, ExpressVote, and ClearAccess do not electronically tabulate votes. Therefore, these devices are not considered electronic voting equipment.
2. All polling places must be equipped with at least one accessible voting equipment component to permit all voters to vote privately and independently. HAVA §301(a)(3)(A). More information on accessible voting equipment can be found in the Accessibility section of this manual.

## Voting Equipment Certification and Approval

Before any voting equipment system can be marketed or sold in the State of Wisconsin, the manufacturer must gain federal certification through a testing

process administered by the U.S. Elections Assistance Commission (EAC). Following receipt of federal certification, voting equipment manufacturers must also obtain approval from the Wisconsin Elections Commission before making a system available for sale in the State of Wisconsin.

### *Federal Certification*

42 U.S.C. §15301, HAVA §231(a)(1), HAVA §301(a)(1)(A).

In order to achieve federal certification as required by the Help America Vote Act (HAVA), a voting equipment manufacturer must:

1. Apply to the U.S. Election Assistance Commission (EAC) for testing and certification of the voting system.
2. Submit the equipment to a Voting System Test Laboratory (VSTL), which reviews and tests all firmware, software, and hardware. Following the rigorous test campaign, the VSTL issues a report to the EAC.
3. Receive an EAC-accredited certification number. The EAC issues certification numbers after reviewing the VSTL reports and confirming that the voting equipment conforms to the Voluntary Voting System Guidelines established by the EAC.

### *State Approval*

In order to be granted Wisconsin state approval, a voting equipment manufacturer must:

1. Submit an application to the State of Wisconsin.  
Wis. Admin. Code §7.01(1).

A voting equipment manufacturer may apply to the State of Wisconsin if it has received federal certification. However, any voting system submitted for approval must be federally tested and meet all standards put forth by the EAC. Wis. Admin. Code §7.01(1)(e).

2. Prepare the voting system for testing by WEC staff in three mock elections.

The voting system must pass testing using election definitions from a General Election, Partisan Primary, and Presidential Preference Election. Each of the

three elections contains a special contest. Wis. Stat. §5.91, Wis. Admin. Code §7.02(1).

3. Hold a public demonstration. Wis. Admin. Code §7.02(2).
4. Submit equipment to the Voting Equipment Review Panel (VERP) for review. The VERP is a group of municipal clerks, county clerks, and representatives from advocacy groups who gather to review and offer feedback on voting systems being tested by WEC. Wis. Admin. Code §7.02(2).
5. Receive approval in a regularly scheduled meeting of the Wisconsin Elections Commission. This approval will permit the use of the voting system for any election in the State of Wisconsin. Wis. Stat. §5.91.

#### *Approved Voting Equipment Vendors*

The following is a list of all manufacturers of voting equipment currently approved for use in the State of Wisconsin. Approved voting equipment version numbers and vendor contact numbers for each of the vendors can be found on the agency website.

1. Clear Ballot Group
2. Dominion Voting Systems
3. Election Systems & Software (ES&S)
4. Premier Election Solutions  
(Serviced by Dominion Voting or Election Systems & Software)
5. Populex Corporation
6. Sequoia Voting Systems (Owned by Dominion Voting)  
(Programming and supplies provided by Command Central)

## Pre-Election Electronic Voting Equipment Testing

Wisconsin statutes require that all municipalities test the software of electronic voting equipment for correctness and accuracy prior to every election. The purpose of testing electronic voting equipment is to ensure that the equipment will correctly tabulate votes for all offices and referenda. Wis. Stat. §5.84(1).

### *Public Notice*

The testing of electronic voting equipment, either DRE or optical scan equipment, shall be open to the public.

1. The test may not be conducted more than ten days before Election Day.
2. Public notice of the time and location of the testing shall be given by the clerk at least 48 hours before the test is to take place.

### *Procedure*

In order to conduct a pre-election test for accuracy, the municipal clerk must create a group of test ballots, often called a test deck. A test deck contains a predetermined number of valid votes for each candidate and referendum. While there is no requirement for the number of ballots to be included in the test deck, WEC recommends testing as many vote combinations as possible, as detailed below. The test deck must reflect all of the required testing components described in this section for optical scan equipment, direct recording electronic equipment, and ballot marking devices.

1. Optical Scan Equipment
  - a. Ballots should be marked to reflect a pre-determined number of valid votes for each candidate and referendum.
  - b. Pre-marked ballots shall be run through the optical scan voting unit.
  - c. The tabulation totals from the results tape for the pre-marked ballots are then compared to the pre-determined number to verify the voting equipment is tabulating properly.
2. Direct Recording Electronic (DRE) Equipment



- a. Votes should be cast on the DRE unit in a manner reflecting a pre-determined number of valid votes for each candidate and referendum.
  - b. The printout after the tabulation of the votes cast will then be compared to the pre-determined number to verify the voting equipment is tabulating properly.
  - c. At least two individuals should participate in the DRE test to ensure votes selected on the test deck are entered correctly in the voting system.
3. Ballot Marking Devices (BMDs)
- a. Any test deck created for the purposes of testing optical scan voting equipment must also contain ballots printed from the municipality's ballot marking device, where applicable. BMD ballots should be run through the tabulation equipment along with ballots marked by hand.
  - b. Ballot marking devices approved for use in Wisconsin:
    - i. AutoMark
    - ii. Clear Access
    - iii. ExpressVote
    - iv. ImageCast Evolution

4. Errorless Count Requirement

- a. If an error is detected during the testing, the municipal clerk shall determine the cause and correct the error.
- b. The clerk must make an errorless count before the electronic tabulating equipment is approved by the clerk for use in the election.

**Note:** The WEC recommends that clerks formulate a test deck that is unique to the municipality, and refrain from using test decks provided by the manufacturer/programmer. This is to ensure any errors not discovered by the programmer will be uncovered by the clerk during the test.

## *Testing Protocol*

When testing voting equipment prior to every election, each candidate for every office, for every party, as well as every referendum needs to be tested. Wis. Stat. §5.84(1). Please refer to the following information for a breakdown of specific testing requirements. For questions related to programming, clerks should contact their vendor. Questions on testing protocol and requirements can be addressed to WEC staff.

### 1. Overvotes

- a. Overvotes are votes in excess of the number allowed by law. Test decks need to include overvotes for every office and referendum on the ballot.
- b. Voting equipment must be programmed to automatically reject ballots with overvotes.
- c. Whether ballots with overvotes are remade by election inspectors or overridden on the equipment is a decision made by each municipality.

### 2. Crossover Votes

- a. Crossover votes are votes that cross party lines in an election where doing so is strictly prohibited, e.g. the Presidential Preference and Partisan Primary.
- b. When creating a test deck for these elections, clerks must include crossover votes on the ballots to be tested.
- c. Crossover votes for every party and every candidate should be included.

### 3. Blank Ballots

- a. Blank ballots are ballots that have no votes recorded.
- b. A blank ballot should be included in every test deck to ensure that they are rejected by the voting equipment. A message to notify the elector that no votes have been recorded promptly follows ballot rejection.

#### 4. Write-in votes

- a. On DRE equipment, the write-in function for each office is to be tested to ensure that it is functioning properly and recording choices written in by voters.
- b. On optical scan voting equipment, it should be tested by including ballots containing write-in votes in the test deck. The tabulated results must confirm a correct write-in vote count. For optical scan equipment with a write-in diversion bin, the write-in report also serves to determine that ballots containing write-in votes for each office are properly separated into the write-in bin.

#### 5. Partisan Primary

The clerk shall test for one or more ballots that have votes cast for a candidate of more than one recognized party are rejected. Please see the information above related to crossover votes.

#### 6. General Election

Straight party voting is only allowed for military and overseas voters on write-in absentee ballots.

**Note:** Straight party ballots may also be remade by election inspectors on Election Day in order to be tabulated by voting equipment or may be counted by hand.

#### *Election Day Zero-Count Requirement*

On Election Day, before any ballots have been cast on the electronic voting equipment, and prior to the opening of polls, election officials shall witness a test of the tabulator by securing a printed results “zero tape” showing a zero count for every candidate and referendum. Wis. Stat. §5.84(2).

#### Security Procedures for Electronic Voting Systems

The WEC has developed a series of security procedures for electronic voting systems. These procedures should be followed for each election, recount, or referenda. For any other situation in which voting systems or memory cards must

be accessed, clerks should also review the following. These procedures apply to all memory devices, including prom packs, memory cards, USB memory sticks, and any other removable memory devices that can be programmed or function to store and transfer ballot images or tabulation data. These procedures are intended to protect against malicious breaches to electronic voting equipment components as well as provide transparency of justifiable access.

A video tutorial on voting equipment testing and security is posted on the WEC website.

### *General Electronic Voting System Security Procedures*

1. Throughout the life of the electronic voting system, the municipal or county clerk maintains control of all memory devices and keys to the voting systems. Access to voting equipment is to be strictly controlled and granted in a secure manner at all times. Document authorized access to secured components by election officials. This documentation serves as a chain of custody showing who has accessed the voting equipment outside of election day, when, and why.
2. For each election, there shall be a separate, written chain-of custody record for every programmed memory device. All memory devices used with an electronic voting system have a unique and permanent serial number. Each transfer of the memory device must be logged in the written chain-of-custody record. Information collected should include name(s), date of access, reason, time access keys were taken, and time access keys were returned.
3. For each election, the municipal clerk shall record on the Inspectors' Statement (EL-104), or other WEC approved security documentation, which memory devices and which serialized tamper-evident seals are assigned to particular voting stations or units.

### *Election Day Procedures*

1. Before any ballots are cast on any voting system, the integrity of the tamper-evident seals shall be verified by the chief election inspector. This is done to confirm that the tamper-evident seal serial number on the Inspectors' Statement (EL-104) matches the tamper-evident seal serial number placed on the electronic voting equipment. Once the polls have opened, the chief

election inspector shall perform the same verifications at regular intervals. After the close of polls, the chief inspector conducts a final inspection of the voting equipment seals, noting the results in the inspectors' statement.

2. After the polls have officially closed at 8:00 p.m., election officials follow the proper procedures to suspend the voting and tabulating components of the voting equipment. Election officials must then print a results report prior to breaking any seal on the voting system and before the removal of the memory device from any piece of voting equipment.
3. Following the printing of the results report, the memory device shall be secured in a separate, tamper-evident sealed container or envelope by the chief election inspector. Alternatively, the device may remain sealed in the voting system.

### *Ballot Security*

1. The municipal clerk or board of election commissioners shall securely maintain all ballots from the time of receipt from the printer or county clerk through delivery to the polling place.
2. A ballot container shall be considered "sealed" or "locked" only if no voted ballot may be removed from or deposited into the container, and no other form of access to the ballots inside may be gained without leaving evidence of that entry or access into the container.
3. Ballot bags shall be sealed with a tamper-evident seal on which a serial number must be printed. The serial number shall be recorded on the signed Ballot Container Certification (EL-101) attached to the bag. Serial numbers of the seals shall also be recorded on the Inspectors' Statement (EL-104).
4. Ballots and other election materials should be returned to the municipal clerk.

### *Secure Storage of Voting Equipment*

The need for proper voting equipment security does not stop at the end of election day. Once the polls have closed, municipal and county election officials must ensure that the voting equipment used in their jurisdiction is stored securely until the next election. This means more must be done than simply putting the

equipment out of the way somewhere in the clerk's office. WEC recommends placing voting equipment in a locked and secured area within the clerk's office that is only accessible by the clerk or another authorized individual. Voting equipment can be stored in the municipal clerk's office, the office of the county clerk, or at an agreed upon, and secure, third location. Wis. Stat. §7.21(5).

### *Alternative Security Procedures*

The WEC recognizes the need for flexibility when implementing these security procedures and acknowledges that alternative means may be used to achieve and ensure the same level of security. Therefore, the WEC will consider requests from municipalities and counties to implement alternative security procedures. The request should describe the proposed security procedures in detail and include any documentation such as logs, flow charts, and certification forms. Submissions will be reviewed with approval granted on a case-by-case basis.

### Post-Election Audit

Wisconsin statutes require a post-election audit of the performance of each voting system used in the state of Wisconsin. The audit is designed to assess how electronic voting systems performed on Election Day through a hand-count of electronically tallied ballots. The audit is required following each General Election. However, nothing in these procedures prevents a municipality or county from conducting an audit after other elections or from auditing a larger number of voting machines or reporting units than those selected by the WEC or required under these procedures. Wis. Stat. §7.08(6).

### *Selection*

1. A certain percentage of statewide reporting units will be randomly selected by the Wisconsin Elections Commission, the Wednesday following the November general election. This is done as part of a publicly noticed meeting.
  - a. At least five reporting units for each type or version of voting system used throughout the state will be selected.
    - i. If five reporting units are not represented in the original 5% total, additional reporting units will be selected until all types or versions are represented.

- b. A minimum of one reporting unit from each of Wisconsin's 72 counties are also chosen. Additional reporting units will be randomly chosen until one from each county is selected, if the original selection does not produce a diverse enough pool of counties.
2. Four contests on the ballot will be selected. The highest office on the ballot, president or governor, is selected automatically. The remaining three contests will be drawn by lot from all other contests on every ballot statewide. An exception has been made for the office of State Senate. While no more than one-third of the ballots statewide will ever contain the office of State Senator, the Wisconsin Elections Commission has determined that this office should be subject to audit. An alternate contest will be chosen for reporting units where State Senate is not a contest on the ballot.

### *Notification*

1. Municipalities with reporting units selected for audit will be notified the day following the election.
  - a. Affected county clerks will also be notified.
  - b. It is the responsibility of the municipal clerk to make arrangements with the county to have election materials returned for the purpose of the audit following the county canvass. Materials needed for conducting the audit include voter lists, inspectors' statement, tally sheets, reports printed or generated by the voting systems, ballots, and any other required materials.
2. The municipal clerk and county clerk may choose to have the county conduct the audit and the county may choose to conduct the audit following the county canvass.
3. The audits must be completed on or before the last Wednesday in November. Municipalities may request an extension for cause. WEC staff will review all extension requests for possible approval on a case-by-case basis. With the exception of approved extensions, all audits must be completed prior to certification of the results by the Wisconsin Elections Commission.
4. The audit is considered a public meeting and proper notice shall be posted or published at least 48 hours in advance.

## *Procedure*

A list of procedures, instructions, and documentation forms will be provided to municipalities selected for audit at the time of notification. Generally, the procedure for conducting a post-election audit is as follows:

1. Two individuals shall conduct independent counts of the ballots from the voting system. Note that for direct recording electronic systems, the official ballots are the voter verified paper audit trail.
2. Auditors should only count votes as the equipment would have counted them. **Voter intent is not a factor**. Auditors should document in the minutes any ballots where it is unclear how the voting system would count the ballot. The auditors should include in the minutes how they counted the ballot as well as all reasonable alternatives on how the machine may have counted the ballot.
3. The individual tallies shall be compared to each other, and any discrepancies shall be resolved to an agreed upon final hand-count tally total. If the hand counts differ from each other, the paper records/ballots must be recounted.
4. The final hand-count tally total shall then be compared to the Election Night results tally tape and discrepancies noted.
5. Each municipality conducting an audit must submit the designated reporting form(s) and supporting documents from the audit, including tally sheets, to the WEC to indicate that the audit was completed and whether any discrepancies were found.
6. WEC staff will request that the vendor investigate and explain the reasons for any unexplained differences between the voting equipment tally and the paper record tally.
  - a. Should the vendor fail to provide a sufficient written explanation, including recommendations for preventing future occurrences, within 30 days of notification, the WEC will suspend approval of all voting systems manufactured or serviced by the vendor in Wisconsin.
  - b. This suspension will be implemented immediately, pending an appeal by the manufacturer to the Board, which must be filed within 30 days.



- c. Investigations of discrepancies shall be open and transparent, with active involvement of interested parties.
7. Based upon the results of the audit, the WEC may, at its sole discretion, choose to re-test the voting system per chapter EL 7 of the Wisconsin Administrative Code. The test is a condition of continuing approval of the voting system.

## Frequently Asked Questions

### *1. What is a voter-verified paper audit trail?*

Wisconsin Stat. §5.91(18) requires that all direct recording electronic (DRE) voting systems produce a complete, permanent paper record showing all votes cast by the elector. The voter-verified paper audit trail (VVPAT) is considered the official ballot and is to be used in a recount of each vote cast by the elector.

### *2. Who pays for the purchase of voting equipment?*

Municipal clerks are responsible for the purchase and maintenance of voting equipment. Wis. Stat. §7.15(1)(b). In some situations, an arrangement is reached between the county and the municipality to share the cost of the equipment. Municipal and county clerks should discuss purchasing options.

### *3. Who is responsible for storing equipment after an election?*

Either the municipal or county clerk must store the voting equipment in a locked and secured location. Wis. Stat. §7.21(5)

### *4. What should be done with the zero tape while voting occurs on election day?*

The zero tape should be left attached to the roll of paper, then rolled or folded and attached to the tabulator in the most secure manner possible.

### *5. Can we reuse memory cards?*

Nothing prohibits reuse of memory cards, though municipalities must comply with Wis. Stat. §7.23:

“Detachable recording units and compartments for use with tabulating equipment for an electronic voting system may be cleared or erased 14 days after any primary and 21 days after any other election. Before clearing or erasing the units or compartments, a municipal clerk shall transfer the data contained in the units or compartments to a disk or other recording medium which may be erased or destroyed 22 months after the election to which the data relates. The requirement to transfer data does not apply to units or compartments for use with tabulating equipment for an electronic voting system that was approved for use prior to January 1, 2009, and that is not used in a federal election.

If a recount is pending or if the time allowed for filing a recount petition at any election or an appeal or petition for review of any recount determination or decision at an election has not expired, no materials may be destroyed until after the recount is completed and the applicable time period has expired. In addition, if there is litigation pending with respect to a recount at an election, materials may be destroyed and recording units or compartments may be cleared or erased only by order of the court in which litigation is pending. Upon petition of the attorney general or a district attorney or U.S. attorney for the affected jurisdiction, a circuit judge for the affected jurisdiction may order that specified materials not be destroyed or that specified recorders, units or compartments not be cleared or erased as otherwise authorized under this subsection until the court so permits.”

# ACCESSIBILITY

## Summary

Accessible polling places that ensure privacy and independence for all voters casting a ballot not only benefit elderly voters and voters with disabilities but act as a key to developing and maintaining public trust in the accessibility and transparency of the elections process for all participants. Municipalities must have polling places that are fully accessible, which includes having at least one accessible voting equipment component. Wis. Stats. §§ 5.25(4)(a) and 5.40(1). Municipal clerks are required to make reasonable efforts to comply with requests for voting accommodations made by individuals with disabilities. Wis. Stat. § 5.36.

## Polling Place Accessibility

In order to comply with this requirement, municipal clerks are required to submit a completed *Polling Place Accessibility Self-Assessment (EL-501)* indicating accessibility compliance. A copy of this survey is available on the agency website where it may be submitted electronically. Wis. Stat. § 5.25(4)(a).

1. A New Polling Place Self-Assessment must be submitted for WEC staff to add the new polling place to WisVote.
  - a. A self-assessment must also be submitted to document any changes to the voter's route if there are renovations or the voting room changes at an existing polling place.
2. If it is determined that a polling place is inaccessible, the municipal clerk and the governing body must determine how to make the polling place accessible or find a new location.
3. Polling place accessibility should be reviewed periodically.

The Wisconsin Elections Commission also offers a number of suggestions that will make the voting process easier and ensure privacy for elderly people and people with disabilities. Wis. Stat. § 5.25(4)(a). These include:

1. Making sure the polling area has adequate lighting.

2. Providing page magnifying devices and signature guides.
3. Having at least one pad of paper and a pen to communicate with individuals who are deaf or hard of hearing.
4. Making seating available for elderly and disabled voters waiting in line.
5. Having signs and arrows directing voters where to check-in, register, vote a ballot, and cast a ballot.

### Accessible Voting Equipment

All polling places must be equipped with at least one accessible voting component to permit all voters to vote privately and independently. This accessible component, a device approved by the Wisconsin Elections Commission to provide independence and privacy to voters with disabilities, must be available for all elections. Refer to the Voting Equipment section of this manual for more information or visit the agency website. Wis. Stat. §5.40(1).

#### *Procedures*

1. Municipal clerks must ensure that accessible components are available to all electors to cast their ballots including:
  - a. Ensuring accessible components are located in an accessible voting booth with sufficient privacy.
  - b. Ensuring the accessible components are turned on and working. Wis. Stat. § 5.25(4).
  - c. Municipal clerks must include ballots marked using accessible voting equipment in their public test of voting equipment. Wis. Stat. § 5.84(1).
2. Municipal clerks should ensure that election inspectors are familiar with accessible equipment and able to perform basic tasks including:
  - a. Explain to an elector how to use the equipment to cast their ballot.
  - b. Turn on and restart the accessible equipment (if applicable).

- c. Change the paper roll, if necessary.
- d. Change ink cartridge, if necessary.

## Training Election Inspectors - Accessibility

Election inspectors should be instructed on how to ensure the greatest level of accessibility on Election Day.

1. Municipal clerks should review polling place set-up requirements with election inspectors.
2. Municipal clerks should review the *Common Sense and Common Courtesy* document with inspectors prior to Election Day. A copy of this document is available on the page following this section.
3. Inspectors must be aware of accommodations available to voters. Inspectors must be knowledgeable that if an elector is unable to state their name and address, they are able to have an assistant state it for them. Wis. Stat. § 6.79(8). Inspectors must also be trained that if a voter is unable to sign their name in the poll book due to disability, the inspector should write “exempt” in the signature line. Wis. Stat. § 6.36(2)(a).
4. Municipal clerks should ensure that election inspectors are knowledgeable about how to use all voting equipment including accessible equipment. The WEC suggests that election inspectors participate in the public test to gain familiarity with the voting equipment and security procedures. Poll workers should be encouraged to use the accessible equipment to cast their own ballot. Accessible voting equipment instructional videos are available on the WEC website.
5. There is a plan in place for inspectors to communicate that there is accessible voting equipment, such as asking voters if they would like a paper ballot or to use the machine.
6. Inspectors should be encouraged to view the Wisconsin Elections Commission Accessibility Training video: *Know Your Rights* about accessible voting rights. The video is available on the agency website.

7. Municipal clerks are encouraged to reach out to the local disability community to recruit election inspectors. If you need help in locating people with disabilities who may be interested in serving as an election inspector, contact the Wisconsin Elections Commission. Please note that any poll worker is entitled to reasonable accommodations.
8. Municipal clerks are encouraged to reach out to local disability rights organizations, such as the Disability Vote Coalition, to assist in the training of election inspectors.
9. Disability Rights Wisconsin, an advocacy group for individuals with disabilities, has prepared an *Election Day Accessibility Checklist* for election inspectors. This checklist is at the end of this section for your reference.

### Accessibility Contacts & Additional Resources

If you do not know exactly how to solve an issue and would like advice on affordable solutions, you may contact the Wisconsin Disability Vote Coalition, the Coalition of Independent Living Centers or the Wisconsin Elections Commission for advice. More information on accessibility can be obtained from The Access Board's Americans with Disabilities Act Accessibility Guideline (ADAAG) manual, which is available at: <https://www.access-board.gov/>.

#### **Wisconsin Elections Commission**

P.O. Box 7984  
 Madison, WI 53707-7984  
 (608) 266-8005  
 elections@wi.gov  
<http://elections.wi.gov>

#### **Wisconsin Disability Vote Coalition**

Disability Rights Wisconsin  
 (844)347-8683  
[disabilityvote.org](http://disabilityvote.org)  
[www.facebook.com/wisconsin Disability Vote](http://www.facebook.com/wisconsin Disability Vote)

#### **Disability Rights Wisconsin (DRW)**

(800)928-8778  
[Disabilityrightswi.org](http://Disabilityrightswi.org)  
[www.facebook.com/disabilityrightswi](http://www.facebook.com/disabilityrightswi)

#### **ADA Checklist for Polling Places**

<https://www.ada.gov/resources/polling-places-checklist/>

## COMMON SENSE AND COMMON COURTESY

Many election inspectors have had little interaction with people with disabilities; here are a few courtesies and guidelines:

- Remember that all voters deserve courteous attention in exercising their right as citizens to vote.
- Remember not all disabilities are visible. Each individual knows their own abilities best. If an individual requests assistance, trust that it is necessary.
- Be considerate of the extra time it might take for a person with a disability or an elderly person to get things done.
- Animals that assist people with disabilities must be admitted into all buildings. Such animals are highly trained and need no special care other than that provided by the owner.
- Greet a person who is visually impaired by letting the person know who and where you are.
- When offering walking assistance, allow the person to take your arm and tell them if you are approaching steps or inclines or are turning right or left.
- If someone uses a mobility aid like a wheelchair, ask if they would like assistance. If they would like assistance, ask how you can assist them. **Do not** push their chair without their consent.
- Speak directly to the person who has a disability rather than just to a companion who may be accompanying them.
- Speak calmly, slowly, and directly to a person who is hard of hearing. Your facial expressions, gestures, and body movements help in understanding. Don't shout or speak in the person's ear. If full understanding is doubtful, try writing a note to the person.
- Pre-printed signs or a notepad should be available to assist communication with deaf or hard of hearing electors.
- Give unhurried attention to a person who has difficulty speaking.
- Provide a guiding device such as a ruler or a signature guide for signing forms.
- You can assist a voter with filling out a registration form. If a voter is unable to sign their own registration form, you can sign their name and then your own as the assistant.
- State and federal law permits voters with disabilities to be accompanied and to receive assistance by another person in the voting booth.





# EMERGENCY PREPAREDNESS AND CONTIGENCY PLANNING

## Summary

There are many scenarios, both natural and man-made, that warrant taking precautions and making preparations to prevent, mitigate, and recover from an emergency situation that may disrupt an election.

The Wisconsin Elections Commission has worked to examine all aspects of security in relation to Wisconsin's election administration technology and laws and drafted a comprehensive plan to document the coordination between the WEC and other election security partners. Wisconsin's election systems are secure thanks to the Wisconsin Elections Commission's strong partnerships with federal and state agencies, as well as with local election officials and the voters of Wisconsin. The plan exists to detail the WEC's election security preparation and progress over the past two years, and steps WEC staff will pursue in the future to continue to keep Wisconsin's elections secure.

Due to the changing security landscape, WEC staff updates the Election Security Plan regularly to ensure it contains the most up-to-date information:

<https://elections.wi.gov/resources/reports/election-security-planning-reports>.

## Procedures

Municipal clerks should ensure that each municipality has an Election Day Emergency Response Plan. To assist clerks, the WEC has created an Election Day Emergency Response plan template. This template is available in the WEC Learning Center. Additionally, the WEC has created the Contingency Planning and Election System Security manual, which details election security best practices and provides potential security resources. This manual can be found on the agency website. Contingency plans should be reviewed with election inspectors as part of the clerk's pre-election training, so election inspectors know what actions to take if an emergency occurs. Efforts should be made to have back-up election inspectors that are knowledgeable of Election Day procedures and on call in the event of an illness or other unforeseen incident.

We encourage you to share these plans with your county clerk as well as with your local emergency response crews such as the police, fire, and emergency

government departments. In the event of an emergency, these partners can serve as a resource to help you quickly resume election activities.

The plans should be updated annually or more frequently as needed. The WEC has created an Election Day Emergency Response plan template and is available in the WEC Learning Center. These plans should, at a minimum, provide for the following:

1. Normal Operating Procedures

The plans should include a briefing on the normal election-related processes.

2. Troubleshooting for Common Emergency Scenarios

- a. The plan should provide appropriate responses to the most common emergency scenarios, such as a fire or fire alarm, inclement weather, electrical outage, and materials/equipment not available.
- b. Plans should include evacuation and emergency shelter locations that are specific to each polling place and updated before each election.
- c. Contact numbers should be provided to election inspectors for local emergency response such as the police, fire, and emergency government departments, in addition to the polling locations' building maintenance personnel (if applicable) and the municipal clerk.

**Note:** The third page of the *Election Day* manual, "Election Day Contacts," and the Election Day Emergency Response plan provides space to list these numbers and should be completed or updated before Election Day.

3. Handling of Election Materials

- a. Plans should detail the proper procedure for securing unmarked ballots, voting equipment and ballot boxes, and poll lists in an emergency situation.
- b. Responsibility for securing materials should be assigned to specific election inspectors before Election Day.

#### 4. Alternate Polling Locations.

- a. Arrangements for alternate polling locations should be established before Election Day in the event of a permanent evacuation.
- b. Reasonable effort should be made to ensure accessibility and proximity to the original polling location.
- c. Whenever it becomes impossible or inconvenient to hold an election at the designated location (inclement weather, bomb threat, etc.), the inspectors may adjourn to the nearest convenient place. The inspectors must make a proclamation of the move, and a law enforcement officer or other designated person must be stationed at the former site to notify electors of the move. The procedure for adjournment to an alternate site is outlined in Wis. Stat. § 7.37(1).

### Frequently Asked Questions

1. *What happens if an emergency occurs at the polling place on Election Day and the inspectors need to move locations?*

Wisconsin Statutes detail the procedure for adjourning to an alternate polling location in the event of an emergency. The municipal clerk should always consult with the Wisconsin Elections Commission before moving a polling location.

2. *What happens in a weather emergency? Can we close early?*

No. The polling place must remain open during regular hours (7:00 a.m. – 8:00 p.m.) and cannot be adjusted except by court order.

3. *Who should I show my contingency plans?*

Contingency plans should not be publicly displayed but should be shown to inspectors and staff who are helping on Election Day.

4. *How often should I update my contingency plans?*

Contingency plans should be updated at least annually and reviewed before each election to ensure all information is correct.



## **POLLING PLACES & SUPPLIES**

### Summary

Municipal clerks have a number of duties related to polling places up to and through Election Day. Specifically, municipal clerks have the responsibility to equip polling places and to prepare and deliver ballots and other supplies.

### Polling Place Establishment

Polling places are established by the governing body of a municipality at least 30 days before any election. These locations must be accessible to all individuals with disabilities and the municipal clerk must certify to the Wisconsin Elections Commission (WEC) that all polling places used within the municipality satisfy the accessibility requirements established by the WEC. Wis. Stat. § 5.25.

All electors within a ward must vote at the same polling place. However, a single polling place can serve the electors of more than one ward. When two or more wards are combined for voting purposes at a single polling place the governing body must do so by resolution at least 30 days before any election.

In municipalities where the population is less than 35,000, the governing body may provide in the resolution to combine the election results for each set of combined wards. The governing body of a municipality of 35,000 or more may by resolution combine election returns of a ward with an adjacent ward if the ward has a population of 20 or less and the total population of the combined wards would not exceed that municipality's population range for wards. Election results can be combined only if electors in the combined wards vote for the same offices.

### Equipping and Supplying the Polling Place

A checklist outlining what materials and set-up the municipal clerk must provide for each polling place follows this section. Each polling place must be provided with the following:

## *Voting Booths*

- Every polling location is required to have at least one voting booth for every 200 electors who voted in the last general election.
- One booth must be at least 30 inches wide with a writing surface between 28 and 34 inches high in order to meet accessibility standards, in addition to the accessible voting equipment. Knee clearance from the floor to the underside of the booth should be at least 27 inches. Toe/knee clearance from the front to the back of the booth should be at least 17 inches.
- Booths must have a surface on which to write and be sufficiently enclosed to ensure privacy for the elector. It is important to remember that the accessible booth must also be sufficiently enclosed to ensure privacy for the elector. This can be achieved by using a privacy shield or by positioning the table so that the face of the equipment is directed away from the view of the room.
- All booths must be placed together in the same vicinity, including the booth(s) containing the accessible voting equipment.
- Booths are required to be placed apart from other activities such as signing in and registering.
- Pencils or appropriate marking pens must be provided.
- Election inspectors must be trained to set up electronic voting equipment, including accessible voting components.

Wis. Stat. § 5.35(2).

## *Electronic Voting Systems*

- All municipalities with a population of 7,500 or more are required to use electronic voting systems.
- Every polling location must have at least one piece of voting equipment that meets accessibility standards set forth by the WEC to allow individuals with disabilities to vote privately and independently. Wis. Stat. § 5.25(4)(a).

For more information on voting equipment, please see the section in this manual on Voting Equipment.

Wis. Stat. § 5.40(1).

### *Paper Ballots*

No matter the type of voting system used, there must be a supply of paper ballots available at the polling place. This paper ballot supply is for cases in which the electronic voting equipment breaks down/malfunctions, an elector votes provisionally, curbside, is assisted or challenged after the normal closing time due to court order.

### *Ballot Boxes*

- One ballot box is required for each type of ballot used in the election for municipalities using hand-count paper ballots.
- Where direct recording electronic equipment primarily is used at the polling place, a single ballot box for hand-counted paper ballots (such as absentee, assisted, and challenged ballots) is required.
- If electors from more than one reporting unit use the same polling place, there should be separate ballot boxes provided for each reporting unit.
- The boxes should be clearly labeled to indicate which ballots are to be deposited.
- There should be a suitable lock and key for each ballot box, *including the discard box for partisan primary paper ballots not marked by the elector.*

Wis. Stat. § 5.35(3).

### *National Flag*

The American flag must be displayed on an outside pole or in the voting area during all hours the polling place is open. Wis. Stat. § 5.35(1).

### *Election Laws and Manuals*

- A copy of Chapters 5 through 12 of the Wisconsin State Statutes should be present at all polling locations.
- A copy of the current *Election Day* manual.

Copies of these statutes and the manual can be downloaded from the agency website or ordered for a processing charge.

### *Tables and Chairs*

Clerks should ensure that there are enough tables and chairs for election inspectors to conduct their work. Some electors may not be physically able to stand for extended periods of time. Chairs should also be available for these electors if they must stand in line. Wis. Stat. § 5.25(4)(a).

### *Signs*

- Traffic in the polling place can be improved by posting “Enter,” “Exit,” and “Voter Registration” signs.
- Signs indicating the location of an accessible entrance and marking the accessible path must be prominently posted and easy to read from the parking lot. Wis. Stat. § 5.25(4)(a).
- Directions that instruct voters that they must give their name and address to the inspectors, provide proof of identification and sign the poll list can make the check-in process more efficient.

### *Observer Area*

Observers are individuals who wish to exercise their right to be present at the polling place on Election Day. Anyone, other than a candidate, has a right to be at a polling place to observe the conduct of the election. Wisconsin law does not prohibit non-U.S. citizens or foreign nationals from observing the election process. Each observer is required to sign an observer log and wear tag, or badge labeled “observer.”



- a. A designated observation area at the polling place should permit observers to readily observe all public aspects of the voting process. When physically feasible, the observation area shall be not less than 3 feet, nor more than 8 feet from the table at which electors are announcing their name and address and being issued a voter number and the Election Day Registration table. Observers should be placed so that they can hear the announcement of names/addresses interactions of voters with election officials, but not so that they interfere with the voting process.
- b. If necessary, additional observer areas may be established in other areas of the polling place to allow for observation of other public aspects of the voting process (challenges, ballot box security, etc.)
- c. Please provide chairs for the observers. A table may also be setup, if space permits.
- d. Please provide copies of the agency's *Wisconsin Election Observers Rules-at-a-Glance* brochure. This brochure should be provided to all observers upon check-in.

Wis. Stat. § 7.41(2).

More information about how to handle election observers on Election Day can be found in “Election Day Issues” section of this manual and the *Election Day* manual.

### *Voter Information and Notices*

All of the following notices, statements, and postings should be supplied to the polling place so that they can be posted and easily read by electors entering the polling place or waiting in line to vote. All Election Day notices, statements, and postings must be printed in size 18 font or larger to ensure readability. Copies of sample voter information notices can be found on the agency website.

1. Notices: The Type B and D notices must be posted. The Type C notice must also be posted, if applicable.
2. Sample Ballots: Two copies of each type of ballot.

3. Statement of Election Fraud (EL-111): This statement sets out the laws and applicable penalties for election fraud.
4. Notice of Crossover Voting at a Partisan Primary (EL-112): This is a statement explaining the effect of crossover voting at a partisan primary and is posted at a partisan primary only.
5. Notice of Overvote (EL-113): This is a statement explaining the effect of overvoting the ballot and how to obtain a replacement ballot.
6. Notice of Crossover Voting at a Presidential Preference Vote (EL-114): This is a statement explaining the effect of crossover voting at a Presidential Preference Vote and is posted at that election only.
7. Voter Qualification Poster (EL-115): This notice explains the requirements for an individual to be a qualified elector.
8. Voting Rights (EL-117): This notice provides general information on voting rights protected by federal law.
9. Contact Information (EL-118): This posting provides electors with contact information if they have concerns with the voting process. The blank sections should be filled in before Election Day by the municipal clerk.
10. Ward Maps: A ward map clearly indicating all the wards in the municipality served by that polling place must be prominently displayed.
11. Street Directory: A street directory that indicates which streets are in each ward along with the location of the polling place in each ward is recommended.

Wis. Stats. §§ 5.35(6), 10.01, 10.02, and 10.06.

### *Election Day Forms and Supplies*

Election Day forms and supplies are provided by the county, municipal, or school district clerk depending on the offices on the ballot.

1. Ballots and Sample Ballots: Two sample ballots for each ballot style should be posted at the polling place. For more information on preparing ballots, see the Ballots section of this manual.
2. Ballot Bags (EL-101):

A ballot bag/container should be provided for each ballot style.

- For example, for municipalities that hand-count paper ballots, there should be (per reporting unit) one ballot bag for county, state, and federal ballots; one ballot bag for municipal ballots; one ballot bag for school district ballots; and one ballot bag for each referenda and special district ballot.
- Where optical scan or direct recording electronic ballots are used, only one ballot bag is necessary because all offices and referenda are on a single ballot card.
- A separate ballot bag should be used for provisional ballots.

Wis. Stat. § 7.51(3)(a)-(b).

3. Envelope for Rejected Absentee Ballot Certificate Envelopes (EL-102): Election officials place all rejected Absentee Ballot Certificate Envelopes (EL-122) in this brown carrier envelope. It is returned to the clerk who provided it for that election. Wis. Stat. § 6.88(3)(b).
4. Envelope for Used Absentee Ballot Certificate Envelopes (EL-103): Election inspectors place all used Absentee Ballot Certificate Envelopes (EL-122) in this white carrier envelope after determining they have been properly executed and after removing the absentee ballots. The envelope is returned to the clerk who provided it for that election. Wis. Stat. § 7.51(3)(d).
5. Inspectors' Statement (EL-104): All challenged, provisional, damaged, defective, and rejected ballots must be documented using this form. This statement should provide an accurate account of the inspectors' decisions concerning all ballot irregularities and describe any other occurrences or irregularities at the polling place (that may or may not affect the validity of the election). Wis. Stat. § 7.51(4)(a).

6. General Purpose Tally (EL-105): Inspectors or tabulators use this form in counting hand-count paper ballots and recording the number of votes cast for each candidate. This includes write-in votes, or in the case of a referendum, the yes and no votes. Where optical scan ballots are used, a tally sheet is used to count and record registered write-in votes. Note that write-in votes are recorded individually for specific situations. Wis. Stat. § 7.51(4).

- All write-in votes are counted for each office when there are no certified candidates on the ballot.
- If the number of certified candidates on the ballot for an office is at least as many as there are seats to be filled, only votes for write-in candidates who registered their campaign should be counted. Write-in candidates register their campaign by filing a campaign registration statement (CF-1) with the filing officer. The deadline for a write-in candidate to file the campaign finance registration statement with the municipal clerk is noon on the Friday before the election in which they are running.
- If a certified candidate for an office dies before the election, votes for all write-in candidates for that office are counted. Wis. Stat. § 6.33(3).
- NOTE: If a ballot candidate has passed away at the time of the election but the name remains on the ballot, votes for the deceased candidate are counted. If the deceased candidate wins the election, a vacancy is declared which is filled under the provisions of Wis. Stat. Ch. 17.

Poll List: The poll list may be on paper or electronic and is a list containing the names and addresses of registered voters in a ward or combination of wards. If a municipality uses paper poll lists, each ward or combination of wards will have two poll lists, which must be maintained identically on Election Day. If the municipality uses e-pollbooks, this is not required as each machine updates the list on all machines. Election inspectors use poll lists to ensure only registered voters cast a ballot, and to capture certain information about each registered voter who receives a ballot. Wis. Stats. §§ 6.36(2)(a), 6.79.

- a. Providers generate poll lists from WisVote during the 14 days before an election.

- b. Providers give the lists to relier clerks, who in turn distribute them to polling locations.
- c. Self-provider clerks generate poll lists for their own municipalities and distribute them to their polling locations.
- d. Poll lists consist of 4 parts:
  - 1. Part 1: Regular Poll List (WisVote-generated): Contains the names of all voters who register by 5:00 p.m. on the 20th day before the election.
  - 2. Part 2: Pre-printed Supplemental Poll List (WisVote-generated): The municipal clerk may provide a printed list that contains the names and addresses of all voters who registered during late registration. Late registration is from the 19th day before the election up to 5:00 p.m. or the close of the clerk's office, whichever is later, the Friday before the election. Electors who register during this time will receive a Certificate of Registration (EL-133) to be presented at the polling place on Election Day.

**Note:** If a late registrant fails to present his or her Certificate of Registration (EL-133), but his or her name is on the supplemental poll list, the registrant is allowed to vote. If the individual fails to present his or her Certificate of Registration (EL-133) and his or her name does not appear on the supplemental poll list, the election inspector should attempt to contact the municipal clerk and determine if he or she has record of the elector's registration. If there is no record of the elector's registration in the clerk's office, then he or she must complete another Voter Registration Application (EL-131) and provide proof of residence before being allowed to vote.
  - 3. Part 3: Handwritten Supplemental Poll List (EL-107): Election Inspectors must enter the name, address and Election Day voter number of all Election Day registrants onto the Handwritten Supplemental portion of the poll list. This must also be present at polling place that use e-pollbooks. Relier clerks may use the EL-107 to enter the

name and address of any voter who registers after the Provider has printed the WisVote-generated poll list. Voters who appear on the supplemental poll list are not required to present their Certificate of Registration (EL-133) before receiving a ballot.

4. Part 4: Confidential Elector List: If there are any confidential electors in the reporting unit, their names and confidential voter identification numbers will appear at the back of the poll list in a separate section. See the Confidential Electors section in the Electors chapter of this manual for more details.
7. Inspectors' Certificate for Provisional Ballots (EL-108): Inspectors use this form to record the issuance of provisional ballots. All provisional ballots should then be recorded on the Provisional Ballot Recording Form (EL-123r). The EL-123r is submitted by the municipal clerk to the county clerk and to the Wisconsin Elections Commission. Wis. Stat. § 6.97(3)(a).
8. Election Observer Form (EL-109): Individuals who wish to observe the conduct of the election and/or election administration event should legibly list his/her full name, street address and municipality, and the name of the organization or candidate the observer represents, if any. The observer shall also sign this form acknowledging the observer understands the rules and will abide by them. Additionally, an observer must present photo identification to an election inspector. *Any type* of photo identification is acceptable so long as it features a photo of the observer and the observer's name. An election official shall verify by marking on the EL-109 that the observer's name listed on the EL-109 matches the photo identification. If the information on the photo identification does not match the information on the observer log, the individual shall not be permitted to serve as an observer.
9. Order To Leave Polling Place (EL-110): In the event that a chief inspector orders an observer to leave a location, the chief inspector shall provide this written order to the observer which includes the reason for the order and the signatures of the chief inspector as well as another election inspector representing the opposite political party, if available. The chief inspector shall have sole authority to order the removal of an observer, but the other

election inspector may note his or her concurrence or disagreement with the decision on the Inspectors' Statement (EL-104). Wis. Stat § 7.41(3).

10. Election Observers Rules-At-A-Glance: This brochure is available from the agency website. It is a summary of the rules for election observers and a copy should be provided to all individuals who wish to observe the conduct of the election and/or election administration event. Wis. Stat. § 7.41(5).
11. Provisional Ballot Certificate Envelopes (EL-123): Each provisional ballot is placed in a separate provisional ballot certificate envelope. Every provisional voter must complete the certification and seal his or her ballot inside the envelope. Wis. Stat. § 6.97 (3)(b).
12. Provisional Ballot Reporting Form (EL-123r): All provisional electors' information is recorded on this form including the elector's name and address, PV# issued, the reason for issuing the provisional ballot, and whether the elector voted in-person or via absentee. Wis. Stat. § 6.97(3)(a).
13. Absentee Ballot Log (EL-124): The voter number that is issued to an absentee elector must be recorded on the poll list and on the absentee ballot log. If an absentee ballot is rejected, the reason for the rejection and the rejected ballot number is recorded on the absentee ballot log. Wis. Stat. § 6.88(1), (3)(b).
14. Presidential Elections: November Presidential elections require two additional forms. These forms are used for individuals who moved to Wisconsin less than 28 days before a presidential election. These individuals are eligible to vote in the presidential contest only. Wis. Stat. § 6.18.
  - a. Authorization to Cancel Registration-Presidential Election/New WI Resident (EL-139)
  - b. Application for Presidential Ballot (EL-141)

## Frequently Asked Questions

1. *Are polling places required to be in public buildings?*

Polling places should be in public buildings unless the governing body determines that the use of a nonpublic building better serves the needs of the voters.

2. *Do we need to have a voting booth for our accessible voting equipment or may we put it on a table that is at least 30 inches wide and between 28 and 34 inches tall?*

Voting booths are required for both paper ballots and electronic voting equipment. A table that meets accessibility width and height may be used if the table is sufficiently shielded or enclosed to ensure voter privacy. This can be achieved by using a privacy shield or by positioning the table so that the face of the equipment is directed away from the view of the room.

3. *Do election observers need to obtain a permit or pre-register with the clerk Before Election Day?*

No, there is no requirement that observers need to obtain a permit. However, if the two dominant political parties wish to have an observer accompany special voting deputies conducting absentee voting in a care facility or retirement home, the name of the observer must be submitted to the municipal clerk or board of election commissioners no later than the close of the business on the last business day prior to the residential care facility visit.

4. *Can a candidate ever be an observer?*

Yes. After the polls close, anyone, including the candidate, may be present to observe the public aspects of the post-election process. During polling hours, however, the candidate may not be an observer. The doors to the polls must remain open and unlocked during the counting of votes.

5. *Can family members of candidates be election observers?*

Yes, there is nothing that prohibits family members of candidates from being present at the polling place as observers. As with all observers, they cannot disrupt the operation of the polling place or attempt to influence voters. If it appears that the primary purpose of a group or individual is to disrupt or



influence voting, the chief inspector should order the removal of the individuals and may contact a law enforcement officer, if necessary, for assistance.

6. *Can the names of known write-in candidates be posted?*

No, names of known write-in candidates are not to be posted at the polling place. Inspectors are not to mention write-in candidates to voters as a matter of course. Only if specifically asked by a voter about write-in candidates, may an inspector give the names of known write-in candidates. However, answers must be given carefully so as not to appear to be endorsing or announcing a write-in candidate. We recommend the clerk provide the election inspectors with a list of registered write-in candidates to give to any voters that request this information. Further, election inspectors may not advise voters if any ballot candidates no longer wish to run for office, even if asked by a voter.

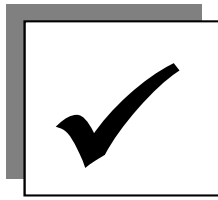
7. *What happens if a voter presents a Certificate of Registration (EL-133) on Election Day but does not appear on the Supplemental Poll List (EL-107)?*

Election inspectors must enter the individual's name, address and Election Day voter number onto the Handwritten Supplemental portion of the poll list. The voter will not need to re-register.

8. *What happens if a voter insists that they registered in the clerk's office, but their name does not appear on the poll list or supplemental list and the voter cannot produce an EL-133?*

The voter is required to complete another registration form and provide acceptable proof of residence.

# Polling Place Checklist



## Supplies:

- Poll Book
- Supplemental (Election Day) Poll List (EL – 107)
- Proper Ballots
- Ballot Boxes
- Pencil or proper marker for each voting booth
- Ballot bags with Ballot Container Certificate (EL-101) affixed
- Envelope (brown) for rejected absentee ballots with Certificate (EL-102) affixed
- Envelope (white) for Used Absentee Certificate Envelopes with Certificate (EL-103) affixed.
- Inspectors' Statement (EL-104) & Challenge Documentation (EL-104c)
- General Purpose Tally Sheet (EL-105)
- General Purpose Canvass Report (EL-106)
- Envelope for Provisional Ballots (EL-108)
- Election Observer Log (EL-109)
- Order to Leave (EL-110)
- Election Observer Brochure
- Provisional Ballot Certificate Envelopes (EL-123)
- Provisional Ballot Reporting Form(s) (EL-123r)
- Provisional Voting Information Sheets for electors
- Absentee Ballot Log (EL-124)
- FOR PRESIDENTIAL ELECTIONS, Authorization to Cancel Registration (EL-139)
- FOR PRESIDENTIAL ELECTIONS, Application of New Wisconsin Resident for Presidential Ballot (EL-141)
- Election Day Manual
- Copy of Wisconsin Statutes Chapters 5-11, 12
- Original Ballots Envelope
- Spoiled Ballots Envelope

## Posted Notices:

- Type B Information to Electors
- Type C Notice of Referendum
- Type D Polling Place Hours and Locations
- Two samples of each ballot type
- Election Fraud Notice (EL-111)
- FOR PARTISAN PRIMARY, Notice of Crossover Voting (EL-112, paper ballots; EL-112m, electronic voting equipment)
- Notice of Overvote (EL-113)
- FOR PRESIDENTIAL PREFERENCE, Notice of Crossover Voting (EL-114)
- Voter Qualification Poster (EL-115)
- General Information on Voting Rights Under Federal Laws (EL-117)
- Contact Information (EL-118)
- Ward Map and Street Directory

## Location:

- Displayed American Flag
- One entrance clearly marked as accessible for people with disabilities
- Verify seals and serial numbers on accessible voting equipment and initial verification on EL-104
- Verify seals and serial numbers on electronic voting equipment (optical scan) and initial verification on EL-104
- At least one voting booth for every 200 electors who voted in the last general election
- Voting equipment counter set at "0"
- Area designated for observers
- Separate area for voters to register at the polling place
- Table inside door for poll book (enough room for 2 election inspectors)
- Accessible Voting Equipment powered on

## **ELECTION DAY ISSUES**

### Summary

Before Election Day, the municipal clerk has made a number of preparations to ensure a smooth Election Day. This includes preparing for delivery of ballots and supplies, posting of required notices, voting equipment testing and set-up, training of election inspectors, and developing and documenting a contingency plan for unforeseen incidents. On Election Day, the municipal clerk serves as a resource for the election inspectors for questions and troubleshooting.

### Role of the Clerk on Election Day

On Election Day, the polling place is run by the chief election inspector. However, the municipal clerk should periodically inspect the polling place to monitor turn out, check supply levels, respond to news media inquiries, and handle any problems. While not in the voting area, they should be available to election inspectors for advice, supply requests, etc. If the municipal clerk is not available on Election Day, a deputy should be appointed to act in their absence.

**Note:** When running for re-election, municipal clerks should not be stationed at the polling place, as their presence casts doubt on the integrity of the election. It is the formal opinion of the Wisconsin Elections Commission that an incumbent municipal clerk should carry out their duties without being stationed at the polling place, or without spending extended periods of time at the polling place. [EL Opinion 81-3](#).

### Central Count Absentee Ballot Site

The governing body of any municipality may provide by ordinance that, instead of processing absentee ballots at the polling place, absentee ballots be processed and canvassed at an alternate site. Wis. Stat. § 7.52. The municipality is required to submit notification, in writing, to the Wisconsin Elections Commission on how the municipality intends to process absentee ballots at a central location and the municipality is required to consult with the Wisconsin Elections Commission staff. The municipal board of absentee ballot canvassers shall publicly canvass all absentee ballots at all elections held in the municipality after passage of such an ordinance. Wis. Stat. § 7.52.

### *Municipal Board of Absentee Ballot Canvassers*

1. The municipal board of absentee ballot canvassers is composed of the municipal clerk, and two other qualified electors of the municipality appointed by the clerk.
2. The members of the municipal board of absentee ballot canvassers serve 2-year terms commencing on January 1 of each odd-numbered year.
3. If the municipal clerk is a candidate at an election being canvassed, the clerk may perform their duties on the board of absentee ballot canvassers only if the clerk does not have an opponent whose name appears on the ballot. If the clerk does have an opponent whose name appears on the ballot, the presiding officer of the municipality shall designate another qualified elector of the municipality to serve in lieu of the clerk for that election.
4. If the municipal clerk is a nonresident of the municipality, they may not serve as a member of the board of absentee ballot canvassers. The clerk must appoint another qualified elector of the municipality to serve their place.

Wis. Stats. §§ 7.52, 7.53(2m).

### *Public Notice*

1. Any member of the public has the right to observe the meeting of the municipal board of absentee ballot canvassers.
2. Public notice of the time and location of the meeting of the municipal board of absentee ballot canvassers shall be given by the clerk at least 48 hours prior.

Wis. Stats. §§ 7.41, 7.52(1)(a).

### *Procedure*

At every election following enactment of a central count absentee ballot ordinance, the municipal board of absentee ballot canvassers shall, any time after the opening of the polls and before 10 p.m. on Election Night, publicly convene to count the absentee ballots for the municipality. Wis. Stat. § 7.52(1)(a).

The municipal board of absentee ballot canvassers shall follow the same procedures and use the same forms as are used at the polling place when processing, counting and securing absentee ballots. These procedures may be found in the “Ballots” section of the Election Day Manual. Wis. Stat. § 7.52(3). It is the responsibility of the municipality to designate the location, appoint the municipal board of absentee ballot canvassers and coordinate the absentee ballot process.

Questions regarding the central count absentee ballot process may be directed to Wisconsin Elections Commission staff.

### Observers

Anyone, other than a candidate up for election, has the right to be present to observe the conduct of the election and/or an election administration event. Observers may be present at a facility served by special voting deputies, a municipal clerk’s office during in-person absentee voting, at a polling place on Election Day, at a central counting location and at a recount. Wis. Stat. § 7.41(1).

The Wisconsin Elections Commission has established rules for observers at a polling place or other locations where votes are being cast, counted, canvassed, or recounted. The rules represent the Commission staff’s application of Wis. Stat. § 7.41. A summary of the rules shall be provided to each observer. The “Wisconsin Election Observers Rules-at-a-Glance” brochure on the agency website may be used to meet this requirement.

All observers shall be accorded the same respect regardless of their political affiliation or non-affiliation.

A designated observation area at the polling place or other location where votes are being cast, counted, canvassed, or recounted should permit observers to hear instructions and to readily observe all public aspects of the process without disrupting the activities.

If observers are unable to hear the election inspectors and voters, they may ask for the instructions or information to be repeated. However, there is no requirement that the instructions or information be broadcast at a specific volume. If space permits, observers may move within the designated observer area to better view and/or hear the interactions.

To ensure the orderly conduct of the election and/or election administration event, and if necessary due to physical limitations of the host location, an election official may reasonably limit the number of observers representing the same organization or candidate.

Wis. Stat. § 7.41(1).

*Management of Observers*

Observers should check-in and follow directions from the election official in charge of the polling place or other location where votes are being cast or counted.

<b>Location</b>	<b>Check In?</b>	<b>Who to Check In With</b>
Facility served by special voting deputies	Yes	Special voting deputies
In-person absentee voting	Yes	Municipal clerk or their designee
Polling place during polling hours	Yes	Chief inspector or their designee
Central count while processing ballots	Yes	Municipal clerk or their designee.
Recount Canvass	No	N/A

*Election Observer Log (EL-109)*

An observer shall legibly list their full name, street address and municipality, and the name of the organization or candidate the observer represents, if any, on the [Election Observer Log \(EL-109\)](#). The observer shall also sign this form acknowledging the observer understands the rules and will abide by them. Wis. Stat. § 7.41(1). Additionally, an observer must present photo identification to an election inspector. Any type of photo identification is acceptable so long as it features a photo of the observer and the observer’s name. An election official shall verify by marking on the EL-109 that the observer’s name listed on the EL-109 matches the photo identification. If the information on the photo identification does not match the information on the observer log, the individual shall not be permitted to serve as an observer.

An observer must wear a tag or badge which reads “Election Observer,” and which shall be worn at all times the observer is inside of the polling place or other

location where votes are being cast, counted, canvassed, or recounted. The name of the observer need not appear on the Election Observer tag or badge.

### *Observer Area – In-Person Absentee Voting*

Observers are allowed at the municipal clerk's office on any day of in-person absentee voting provided the office is located in a public building. No observer is allowed behind the counter in the municipal clerk's office.

Check-In Area: There must be an observer area between three and eight feet of the table/counter at which electors state their name and address to receive a voter number.

Voter Registration Area: There must be an observer area between three and eight feet of the voter registration table/counter.

If space constraints prevent the municipal clerk's office from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk shall document the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. In that case the municipal clerk shall provide a written explanation to the WEC as to the reasons why the distance requirement could not be satisfied, within seven days after the election.

Observers should direct questions and concerns to the municipal clerk.

The EL-109 may not be viewed by members of the public, including other election observers, during this period. It may be obtained through a public records request after the election.

### *Observer Area – Central Counting Location*

Observers are allowed at a central counting location under Wis. Stat. § 5.86.

Counting Area: There must be an observer area between three and eight feet of the table at which the counting is taking place.

If space constraints prevent the central counting location from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk shall document the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. In that case the

municipal clerk shall provide a written explanation to the WEC as to the reasons why the distance requirement could not be satisfied, within seven days after the election.

The EL-109 may not be viewed by members of the public, including other election observers. It may be obtained through a public records request after the election.

### *Observer Area – Polling Place*

An observation area should always be established when setting up the polling place on Election Day.

Check-In Area: There must be an observer area between three and eight feet of the table at which electors state their name and address to receive a voter number.

Voter Registration Area: There must be an observer area between three and eight feet of the voter registration table. Wis. Stat. § 7.41(2).

If space constraints prevent the polling place from accommodating an observation area within three to eight feet of the areas listed here, the municipal clerk and chief inspector shall record on the Inspectors' Statement (EL-104) the actual location of the observation area and the reasons why it could not be located within the three to eight feet distance. In that case the municipal clerk shall provide a written explanation to the WEC as to the reasons why the distance requirement could not be satisfied, within seven days after the election.

Observers should direct questions and concerns to the chief inspector or their designee.

Election inspectors should attach the EL-109 to the Inspectors' Statement (EL-104). The EL-109 may not be viewed by members of the public, including other election observers, on Election Day. After Election Day, a copy of the EL-109 may be obtained through a public records request.



### *Observer Area – Recount*

The recount of any election is open to any interested member of the public, including candidates and their counsel. The recount board of canvassers may limit observers to a designated area, but the observers shall be positioned so that they can see the poll lists and each individual ballot as it is counted. If there is not enough room for all observers to view the ballots as they are being counted, visual preference shall be given to the candidates or their representatives.

The board of canvassers is in charge, and observers shall follow the board's directives. Questions should be directed to the member of the recount board of canvassers designated to receive questions. Video and still cameras are allowed if their use is not disruptive. Because a recount is considered a public meeting, observers are not required to provide photo ID, sign the EL-109 or wear an observer badge.

A recount plan adopted by the Wisconsin Elections Commission, or a local board of canvassers may include additional rules governing observer conduct, provided that the recount plan is consistent with the public's right to observe the recount process and the ability of election officials to conduct the recount.

### *Conduct of Observers*

While observers are present, they are prohibited from electioneering or interfering with the orderly conduct of the election and/or election administration event. Any observer who engages in loud, boisterous, or otherwise disruptive behavior that the election official believes threatens the orderly conduct of the activity or interferes with voting shall receive a warning from the election official. If a warning has been issued, and the offending observer continues the disorderly behavior, the election official shall order the offending observer to depart the location. If the offending observer declines or otherwise fails to comply with the election official's order to depart, the election official shall summon local law enforcement to remove the offending observer.

In the event that an election official orders an observer to leave a location, the election official shall provide a written order to the observer ([EL-110](#)) which includes the reason for the order and the signatures of the local election official as well as another local election official representing the opposite political party, if available. The local election official shall have sole authority to order the removal

of an observer, but the other local election inspector may note their concurrence or disagreement with the decision on the Inspectors' Statement (EL-104).  
Wis. Stat. § 7.41(3).

When an EL-110 is completed, the municipal clerk or board of election commissioners shall notify the WEC of the incident within seven days. This notification should include a copy of the EL-110, if available, and the portion of the Inspectors' Statement which documents the incident. WEC staff will use this information to provide a summary to the Commission after each election of all reported incidents.

### *Viewing Documents*

Observers may examine the poll list so long as they do not interfere with election official responsibilities.<sup>8</sup>

1. The election official determines whether it is an appropriate time to allow an observer to examine or photograph the poll list. If voters are standing in line to have their names recorded and to receive a ballot, it is not an appropriate time to allow observers to view the poll lists.
2. The poll list must remain under the control of election officials at all times.
3. The poll list may not be handed to the observers.
4. Observers are prohibited from viewing the confidential portion of the poll list.
5. Observers are not permitted to make a photocopy of or take photographs or video of proof of residence documents and voted ballots.
6. All observers, regardless of affiliation, should be accorded the same treatment with respect to examining the poll lists.

Observers are not permitted to handle an original version of any official election document, including voter registration forms and/or proof of residence documents while voters are registering.

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<sup>8</sup> If a municipality uses Badger Books, observers may view the Participation List & Count report, accessible from the admin section of the program.

### *Additional Prohibited Activities*

Observers may not conduct any of the following disorderly activities while monitoring the conduct of the election and/or election administration event.

1. Wear clothing or buttons related to candidates, parties, or referenda that are intended to influence voting at the election.
2. Interact with voters, except when asked by an elector to provide assistance in marking their ballot.
3. Watch voters mark their ballots.
4. Have conversations about candidates, parties or ballot questions.

### *Observers at a Care Facility Served by Special Voting Deputies*

Please see *Absentee Voting in Residential Care Facilities and Retirement Homes* for information on observers in care facilities.

### Voter Cell Phones and Photography in Polling Area

Voters may silently use cell phones in the polling area and voters may take photos or video of themselves if it is not disruptive. Voters may not take photos or videos of other voters or other voters' ballots without their consent. The chief inspector may prohibit an observer from using a cell phone if it is deemed disruptive.

Inspectors may wish to caution voters that sharing an image of their voted ballot in exchange for compensation may violate the election bribery or election fraud statutes.

### Media

Members of the media may be present at the public location hosting an election and/or election administration event but cannot interfere with the activities. Members of the media should check-in with the election official in charge of the location. This election official should document the name and affiliation of each member of the media on the Inspectors' Statement (EL-104).

## *Conduct of Media*

1. Communications media observers shall be permitted to use photography and video cameras provided the cameras are not used in a manner that allows the observer to see or record how an elector has voted and provided the cameras do not disrupt or interfere with voting or disrupt the orderly conduct of the election.
2. Contact with electors in the voting area should be limited. This includes interacting with voters who are waiting in line to check-in and/or cast their ballots.
3. Interviews should be held outside of the voting area to ensure doors and entrances are not blocked and the voting process is not disrupted.

The municipal clerk should make sure that media is briefed about acceptable conduct. Members of the media are strongly encouraged to conduct the majority of their activities outside of the room where the election is being conducted. It is the responsibility of the election official to deal directly with any media person who is harassing voters.

## Polling Place Accessibility Assessments

Representatives from the Wisconsin Elections Commission, also known as reviewers, may assess accessibility requirements at Wisconsin polling places. The auditors will check in with the chief inspector at the polling place when beginning the review. The entire process will take 20 to 60 minutes and the reviewers will not interrupt the voting process. They may take photos of the polling place or voting equipment but will not take photos of ballots or voters. These individuals are not observers and should not be asked to sign in or wear an observer badge. The Wisconsin Elections Commission will reach out the clerk of the municipality with the findings of the review sometime after the election.

## Electioneering

Electioneering is any activity intended to influence voting at an election. Electioneering is prohibited during voting hours on public property within 100 feet of any entrance used by voters to access the polling area:

- At the clerk's office during in-person absentee voting

- At any established alternate absentee voting location
- At a facility served by special voting deputies
- At the polling place

Wis. Stats. §§ 12.03(2), 12.035(3).

**Note:** This prohibition does not apply to electioneering on private property within 100 feet of an entrance to a polling place. The placement of election signs on private property within the 100-foot radius is permissible. Wis. Stat. §12.035(4)(b).

State law prohibits the distribution of election-related material at the polling place on Election Day. Election-related material is any written matter which describes, or purports to describe, the rights or responsibilities of individuals voting or registering to vote at a polling place or voting an absentee ballot at the office of the municipal clerk or an alternate site. Election-related material does not include required notices and postings by election officials.

Wis. Stats. §§ 12.03(4), 12.035(4)(a).

Some circumstances to consider:

### Vehicles

1. There is an exception for election-related bumper stickers on vehicles parked within 100 feet of an entrance to a polling place for the length of time it takes for the occupants to vote.
2. Employees who work in the building containing the polling place may have stickers on their cars but if complaints are made, the employee should be asked to move his or her vehicle.
3. If it appears that the primary purpose of parking a vehicle within 100 feet of an entrance to a polling place is to influence voting, then election inspectors should attempt to contact the vehicle owner and have them move and should contact a law enforcement officer.

### Election Materials

1. Campaign signs or flyers may not be posted or distributed within the polling place or within 100 feet of any entrance to a polling place.
2. This prohibition does not apply to campaign activity on private property within 100 feet of an entrance to a polling place. The

placement of election signs on private property within the 100 feet radius is permissible.

Wis. Stat. § 12.03.

### Exit Polls

1. Exit polls are permitted by Wisconsin law but must not interfere with the orderly conduct of the election.
2. Exit polls should be conducted outside of the polling place. Persons conducting exit polls must not interfere with the access of voters entering and leaving the polling place.
3. Electors should not be given the impression that their participation is required, and the exit poll should not resemble a sample ballot or otherwise imply that it is part of the election process.
4. Persons conducting exit polls are encouraged to contact the municipal clerk to discuss the conduct of exit polls, in order to take into consideration any unique circumstances created by the layout or configuration of a particular polling place.

### Solicitations

Solicitations are not allowed in the voting area or inside a building housing the polling place as solicitors can interfere with the orderly conduct of the election. Solicitors must not interfere with the access of voters entering and leaving the polling place. However, solicitors do not have to be outside the 100 feet electioneering zone.

### Petitions on Election Day

It is the formal opinion of the Wisconsin Elections Commission that soliciting signatures for a petition within 100 feet of a polling place on Election Day is NOT considered “electioneering,” provided that the petition is not related to the election at hand and does not attempt to influence the voter regarding that day’s vote. For example, petitions for the recall of an elected official, the institution of referenda, or other petitions to a governing body are not considered “election-related material” and do not violate the

relevant statutes on electioneering if they are not related to the election or contests on the ballot. However, petitioning inside the building containing the polling place on Election Day is considered disruptive, and is prohibited. Petitioners should circulate their petitions outside of the polling place to not interfere with the access of voters entering and leaving the polling place. Election officials will order persons petitioning inside the building containing the polling place to leave the building and summon law enforcement if necessary. Wis. Stats. §§ 7.37(2), 12.03(4), 12.035(4)(a).

### Bake Sales

Bake sales and other activities not related to the election are permitted but not encouraged. If held, they should be set up in a separate room, or in a remote location, so that the orderly conduct of the election is not disrupted.

### Challenging Voters

When there is reason to believe that an elector does not meet the qualifications to vote, the elector may be challenged.

1. Challenges may be brought by any qualified elector of the state including an election inspector.
  - a. If an election inspector is making the challenge, a second election inspector should administer the process.
2. All challenges must be made for reasonable cause as outlined on the [Challenge Documentation of the Inspectors' Statement \(EL-104c\)](#). The election inspectors should use discretion when administering a challenge.
3. Inspectors should be trained on the procedure for handling challenges.
4. All challenges are recorded using the Challenge Documentation section (EL-104c) of the Inspectors' Statement (EL-104). The form lists the procedures to follow, and questions used to establish the challenge.

## *Challenge Procedure*

1. When a challenge is made, the challenging elector is placed under oath and asked to make a sworn statement giving the reason for the challenge.
2. The challenging elector is then questioned by the election inspector using the questions on the challenge documentation form (EL-104c) to provide reasonable support for the challenge.
3. After the challenge has been made and supported under oath, the challenged elector is placed under oath and asked to make a sworn statement in response to the challenge.
4. If the challenged elector refuses to make a statement under oath, the elector shall not be given a ballot.
5. Once the challenged elector has responded to the challenge, the challenging elector has the opportunity to withdraw their challenge. If the challenge is withdrawn, a ballot is issued with no special marks, a notation is made in the Inspectors' Statement (EL-104), and no mark is made on the voter lists.
6. If the challenge is not withdrawn, the election inspector administers the "Oath of Eligibility" to the challenged elector. Once the oath has been made by the elector, a ballot is issued with the voter number and "Section 6.95" marked on the back of the ballot.
7. Once the challenged elector has marked the ballot, it is placed by the elector into the ballot box. A notation "Challenged" and the reason for the challenge is made on the voter lists and the appropriate sections of the Inspectors' Statement (EL-104) are completed by the election inspector.

Wis. Stats. § 6.94, 6.95.

## Frequently Asked Questions

### *1. Can the municipal clerk serve as an election inspector?*

The Wisconsin Elections Commission does not advise that a municipal clerk serve as an election inspector. If the municipal clerk must serve as an inspector, they may not be a candidate on the ballot for that election. If the municipal clerk is on the ballot, they must find another qualified person to fill the vacancy.



2. *When is a challenge appropriate?*

Reasons for a challenge may include age, residency, citizenship, ability to sign the poll list, or disqualification from voting. All challenges should be made with reasonable and appropriate support. If an election inspector believes that an individual is abusing the challenge process, they may request that the person leave the polling place. Challenges must be brought before a ballot is issued.

3. *When is a challenge unacceptable?*

Any challenge to a person's right to vote because that elector is incapable of understanding the objective of the electoral process cannot be determined at the polls. Only a court can disqualify a voter as incompetent for purposes of registering to vote or the right to vote. Such a challenge should be dismissed and an unmarked ballot issued to the elector. Any challenge based on an individual's appearance, speech or inability to speak English is also unacceptable. A notation of the alleged grounds should be made on the challenge documentation form. The challenge should be dismissed and an unmarked ballot issued to the elector.

4. *Can anyone photograph and/or videotape the activities taking place in the polling place?*

Voters may photograph or videotape themselves or their ballots if it is not disruptive. Members of the media and polling place accessibility auditors may use photography and/or video cameras in the polling place during voting hours. The use of photography and video cameras by observers is prohibited.

5. *Do voters need to remove campaign buttons or t-shirts?*

It is best to permit the voter to cast their vote and leave. If the elector engages in electioneering or remains in the polling place as an observer, the individual should be directed to cover or remove any campaign paraphernalia they are wearing if the item is intended to influence voting at the election.

6. *Are exit polls allowed?*

Exit polls are permitted by Wisconsin law. However, exit polls must not be allowed to interfere with the orderly conduct of the election. The municipal clerk should make sure the media is briefed about acceptable conduct for exit polls. Electors who complain about exit polls should be informed that they need not participate.



## **POST ELECTION ACTIVITIES**

### Summary

Even though election inspectors count the votes at the polls on election night, the official results of the elections are not determined until each official board of canvassers (for the municipality, county, state, school district, or other special purpose district) has met and completed the official canvass of their respective offices. The canvass statement is the official determination of the outcome of the election. The election is not complete and no recount can be requested until the canvass has been completed. Wis. Stats. §§ 7.53(4), 9.01(1)(a) 1.

Voters who cast provisional ballots may provide whatever documentation is required no later than 4:00 p.m. on the Friday after the election in order for their provisional ballot to be counted. The responsibility of processing and counting eligible provisional ballots is assigned to the Municipal Clerks, or Executive Directors, and the Municipal Board of Canvassers.

### Composition of the Municipal Board of Canvassers (MBOC)

1. Municipalities with only one polling place.
  - a. In municipalities with one ward or where all of the wards vote at a single polling place and results are combined, the election inspectors constitute the municipal board of canvassers (MBOC).
  - b. All inspectors present at the polling place at the close of the polls complete the Board of Canvassers' Statement (EL-106) for municipal offices and municipal referenda on election night.

Likewise, the inspectors that signed the election night certification comprise the MBOC for any subsequent meeting to amend returns. However, if all of the inspectors who signed the election night certification are not available to amend returns, the clerk may replace the inspectors with a 3-member board of canvassers consisting of the clerk, the chief inspector and one other inspector.

If the clerk is a candidate at the election being canvassed, is a nonresident of the municipality or is unable to serve, the other two members shall

appoint a qualified elector of the municipality to serve in place of the clerk. If one of the other members is unable to serve, the municipal clerk shall appoint a qualified elector of the municipality as a replacement.

Wis. Stat. § 7.53(2)(d), (2m)(b).

2. Municipalities with more than one polling place.
  - a. In municipalities with two or more wards that are not combined, the municipal clerk and two qualified electors chosen by the clerk, serve as the MBOC.
  - b. They complete the Board of Canvassers' Statement (EL-106) for municipal offices and municipal referenda. If a member of the MBOC is unavailable, the clerk may designate a substitute.

Wis. Stat. § 7.53(2)(a)1.

In addition to these familiar duties, the MBOC are required to convene, whether or not there is a municipal election, whenever provisional ballots have been cast.

Wis. Stat. § 7.53.

### Timeline for Convening the MBOC

1. Municipalities where the Election Inspectors Comprise the MBOC.
  - a. The inspectors must conduct the municipal canvass and make their initial determination on election night.
  - b. The inspectors must reconvene as the MBOC no later than 9:00 a.m. on the Monday following the election to process eligible provisional ballots.
    - i. If no eligible provisional ballots are returned, the MBOC does not need to reconvene and the clerk can certify that the election night results stand. See the EL-106P.
2. Municipalities where the Clerk and Two Others Comprise the MBOC.
  - a. When the municipal clerk and two other electors appointed by the clerk serve as the MBOC, the canvass shall begin no earlier than the time that

the MBOC receives the returns from all polling places on election night and no later than 9:00 a.m. on the Monday after the election.

Wis. Stats. §§ 6.97, 7.53.

*Regardless of the Composition of the MBOC...*

The MBOC may convene or reconvene (in the case of the poll workers serving as the MBOC who met election night to canvass municipal results) as soon as all pending provisional ballots have been determined eligible, but no earlier than 4 p.m. on the Friday after the election and no later than 9 a.m. on the Monday after the election. **Note:** Proper 24-hour meeting notice is required.

The 3-day period for petitioning for a recount of municipal offices and referenda does not begin until the day after the final meeting of the MBOC and the completion of the canvassing of the provisional ballots. Wis. Stat. § 9.01(1)(a) 1.

*Timeline for Delivery of Election Night Returns to County, School District and Special Purpose District Clerks*

The municipal clerk shall deliver all ballots, statements, tally sheets, lists and envelopes, **excluding any provisional ballots**, related to any county, school district or special purpose district election to the appropriate clerks by 4:00 p.m. on the day following each such election. Wis. Stat. § 7.51(5)(b).

*Central Count Absentee Municipalities*

The municipal clerk in municipalities that process absentee ballots at a central location shall deliver all ballots, statements, tally sheets, lists and envelopes, **excluding any provisional ballots**, related to any county, school district or special purpose district election to the appropriate clerks by 4:00 p.m. on the second day following each such election. Wis. Stat. § 7.51(5)(b).

*Timeline for Delivery of Amended Returns to the Affected Boards of Canvassers*

The amended returns must be delivered to the county, school district and special purpose district clerks no later than 4:00 p.m. on the Monday after the election. Wis. Stat. § 7.51(5)(b). County, school district and special purpose district boards of canvassers must meet no later than 9 a.m. on Tuesday (one week after an election.) In addition, school district and special purpose district boards of

canvassers must complete the canvass no later than 4 p.m. on the Tuesday after an election. Wis. Stats. §§ 7.53 (3)(a), 7.60(3).

### Duties of Municipal Clerks

1. On Election Night, post the number of pending provisional ballots by reporting unit, on the Internet.  
Wis. Stat. § 7.15(15).
2. On Election Night, transmit the EL-123r to the clerks of any other affected level of government by reporting unit. Wis. Stats. § 6.97(3)(b).
3. On Election Night, enter provisional ballot information {which has been recorded on the Provisional Ballot Reporting Form (EL-123r)} into the Provisional Ballot Tracking System. (If the municipality does not have web access, the WisVote provider enters this information.) 42 U.S.C. § 15482(a)(5)(B).
4. If the clerk receives an absentee ballot from an elector who is recorded as voting on Election Day, the clerk should also contact law enforcement immediately.
5. Provisional ballots are not counted until the required information driver license number, state ID card number or proof of identification is provided to either the election inspectors by 8:00 p.m. on Election Day, or to the municipal clerk or deputy clerk by 4:00 p.m. the Friday after the election.
  - a. Municipal clerks must be available to receive the missing information from electors who have a pending provisional ballot through 4 p.m. on the Friday after the election:
    - i. Electors who need to provide their WI driver license or WI DOT-issued ID card number can provide their number:
      1. Over the phone
      2. By electronic transmission
      3. By delivery
      4. In-person

- ii. Electors who need to provide proof of identification must provide their ID in-person.
  - b. Electors who provide their information after Election Day do not sign the poll list.
  - c. When an elector provides missing provisional information after Election Day, the municipal clerk must update the EL-123r with:
    - i. The type of provisional documentation provided
    - ii. The method used to provide the missing information
    - iii. The date and time the elector provided the missing information
    - iv. The clerk's name
  - d. The Provisional Ballot Tracking System must also be updated when an elector provides missing provisional information after Election Day.
- 6. Continually update the EL-123r as provisional ballots become eligible to be counted, and continually enter the updated information into the Provisional Ballot Tracking System or transmit the updated information to your provider for Provisional Ballot Tracking System entry.

Immediately after the 4:00 p.m. Friday deadline, transmit the final EL-123r forms to the clerks of any other affected level of government (and to your WisVote provider, if necessary).

- 7. Publish a 24-hour open meeting notice and notify the MBOC of the time and location of the meeting. Notice of the meeting which includes the date, time, place and subject matter of the meeting should be sent to the local media at least 24 hours in advance of the meeting. Wis. Stat. § 19.84.  
Note: You may have observers in attendance.
- 8. Provide all necessary materials for the MBOC (see the Supplies Checklist in the appendix of this document).
- 9. Take minutes at the MBOC meeting or assign this duty.

## Processing Provisional Ballots

- A. Examine all EL-123r forms to determine which voters have supplied the missing information necessary for their ballots to be processed.
- B. Verify the tamper-evident seal numbers on the ballot container holding the provisional ballots and record the findings on the Record of Activity (EL-104P).
- C. Open the ballot container holding the Election Day provisional ballots and retrieve the envelopes containing the ballots to be processed.
- D. Process one provisional ballot at a time. Examine the Provisional Ballot Certificate Envelope (EL-123) for sufficiency, following the same procedure used in processing absentee ballots.
  1. Reject the provisional ballot if the envelope is not sufficient or appears to have been tampered with.
    - a. Mark the envelope (EL-123) “Rejected.”
    - b. Write “Rejected” on the Provision Ballot Reporting Form (EL-123r) in the “voter number” column.
    - c. Record the rejection on the Record of Activity (EL-104P).
    - d. Return the unopened EL-123 to the Election Night Provisional Ballot Bag/Container.
  2. If the provisional ballot envelope is sufficient:
    - a. Assign a voter number to the elector.
      - i. Look for the last voter number issued in the appropriate reporting unit and assign the next consecutive number to the voter.
      - ii. Record the number on the EL-123r.



- b. Place the Provisional Certificate Envelope in a large envelope marked “Used Provisional Ballot Envelopes.”
  - c. Place the ballot in the “privacy container” for tally later in the process.
- E. After all provisional ballots have been processed, reconcile the number of voters with the number of provisional ballots.
1. Count the number of ballots in the privacy container to ensure the number of ballots equals the number of additional voter numbers issued for provisional ballots.
  2. Return ballots to privacy container and mix.

F. Tally the Votes

Count and record the votes on two separate Tally Sheets (EL-105).  
Reconcile the tally sheets when the counting for each office is complete.

1. Determine if any of the ballots are “Defective.”
  - a. A “Defective ballot” is a ballot for which a majority of the election inspectors agree that voter intent cannot reasonably be determined.
  - b. A ballot can be defective for some offices and valid for others. Only valid votes on each ballot are counted. The reason for the defect should be recorded on the Record of Activity (EL-104P).
  - c. A defective ballot is labeled “Defective Ballot # \_\_” (beginning with ‘1’), set aside and preserved.
    - i. Defective ballots may be placed in an envelope marked “Defective/Objected To Provisional Ballots or”
    - ii. Bundled together and labeled “Defective Provisional Ballots”
2. Determine if any of the ballots are “Objected To.”
  - a. An “Objected To” ballot is a ballot for which a majority of the election inspectors agree that voter intent can or cannot be

determined, but at least one election inspector disagrees. The reason for the objection is recorded on the Record of Activity (EL-104P).

- b. A ballot may be “Objected To” with respect to one or more offices. “Objected To” ballots are counted if the majority agrees on intent.
  - c. An “Objected To” ballot is labeled “Objected To Ballot # \_\_\_” (beginning with ‘1’), set aside and preserved.
    - i. “Objected To” ballots may be placed in an envelope marked “Defective/Objected To Provisional Ballots or”
    - ii. Bound together and labeled “Objected To Provisional Ballots”
- Bundle the counted provisional ballots together and set aside.
- e. Announce the results of the tally of provisional ballots.

Wis. Stat. § 6.97(2), (3).

### *Securing and Documenting*

#### A. Ballots

- 1. Place the counted provisional ballots and the Defective/Objected to Provisional Ballots in a ballot bag or container.
  - a. Secure the container with a tamper-evident seal.
  - b. Record the tamper-evident seal number on the Ballot Container Certificate (EL-101) and the Record of Activity (EL-104P)
- 3. Reseal the ballot container holding the Election Day provisional ballots with a tamper-evident seal.
  - a. Record the tamper-evident seal number on the Ballot Container Certificate (EL-101) and the Record of Activity (EL-104P).

#### B. Envelopes

- 1. Secure the large envelopes containing:

- a. Used Certificate Absentee Envelopes (EL-103)
  - b. Rejected Absentee Ballots (EL-102)
  - c. Used Provisional Certificate Envelopes
- C. Complete Forms and Sign any Certifications
- 1. Ballot Container Certificates (EL-101)
  - 2. Rejected Absentee Ballots Envelope (EL-102)
  - 3. Used Absentee Certificate Envelope (EL-103)
  - 4. Used Provisional Certificates Envelope
  - 5. Record of Activity (EL-104P)
  - 6. Certification of the MBOC (EL-106P)
  - 7. Tally sheets and machine tapes (EL-105)
  - 8. Provisional Ballot Carrier Envelope (EL-108)
  - 9. Provisional Ballot Reporting Form (EL-123r)
  - 10. Absentee Ballot Log (EL-124)

### Conducting the Municipal Canvass (MBOC)

#### *Canvassing Municipal Offices and Municipal Referenda*

The Municipal Board of Canvassers meets after each election, regardless if there were municipal offices or municipal referenda on the ballot, to make the official determination of the outcome of the municipal election. Follow the Municipal Board of Canvassers instructions located in the *Election Day Manual*. The MBOC uses the Statement of the Board of Canvassers (EL-106) for this purpose.

If the MBOC has already met and completed an EL-106 and is reconvening to process and count provisional ballots, the municipal canvass will have to be amended.

3. Tabular Statement

- a. Complete a new tabular statement for each municipal office and municipal referendum.
- b. Record only the votes counted for provisional ballots in each office for each reporting unit.
- c. Total the votes cast in each reporting unit (across) and for each candidate (down) and record the grand total for each office.

4. Summary Statement

- a. Complete a new summary statement, using the information from the tabular statement, for each municipal office and municipal referendum.
- b. Attach a copy of the *original* summary statement to the new summary statement.
- c. Record the totals from the first summary statement next to the totals on new summary statement.
- d. Add them together and determine a new grand total for each office and referenda.

5. Certification

- a. Complete and sign the Certification.

*Breaking a Tie in a Municipal Contest*

A tie vote in a municipal contest is broken by the Municipal Board of Canvassers. The MBOC should use a method that results in a random outcome, such as flipping a coin or drawing names out of a hat. The procedure should be documented. If all of the candidates are present, they can draw to break the tie themselves. When a municipal referendum results in a tie, the referendum fails. Wis. Stat. § 5.01(4).

## Routing Materials

All materials are delivered to the municipal clerk, but should be separated as follows:

### A. Municipal Clerk

1. Municipal ballots (if separate ballots) sealed in a ballot container.
2. One original of each Tally Sheet (EL-105) and one copy of the voting machine tape, if any.
3. Record of Activity (EL-104P) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
4. Absentee Ballot Log (EL-124) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
5. Provisional Ballot Reporting Form (EL-123r) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
6. Statement of the MBOC (EL-106P) - *Municipal clerk will make certified copies for county, school district and special purpose district clerks.*
7. Statement of the Municipal Board of Canvassers (EL-106), if required.

### B. School District Clerk

1. School District Ballots (if separate ballots) sealed in a ballot container.
2. One original Tally Sheet (EL-105) of school district offices and referenda and one copy of the voting machine tape, if any.
3. One certified copy of the Inspectors' Statement (EL-104) and one certified copy of the Record of Activity (EL-104P)
4. One copy of the Provisional Ballot Reporting Form (EL-123r)

5. One copy of the Absentee Ballot Log (EL-124)

6. A certified copy of the poll list (EL-107, EL-107s)

C. County Clerk

1. Ballot containers with all federal, state, county and technical college ballots.

2. Provisional and absentee ballots sealed in separate ballot containers.

3. Election night provisional ballots resealed in the original ballot bag from election night.

4. The Rejected Absentee Ballots Envelope (EL-102)

5. The Used Absentee Certificates Envelopes Envelope (EL-103)

6. The Used Provisional Certificates Envelope

7. One Original Tally Sheet (EL-105) of federal, state, county and technical college offices and/or referenda and one copy of the voting machine tape, if any.

8. One certified copy of the Record of Activity (EL-104P)

9. One copy of the Provisional Ballot Reporting Form (EL-123r)

10. One copy of the Absentee Ballot Log (EL-124)

11. One certified copy of the Statement of the MBOC (EL-106P)

*Municipal Clerk Follow-up*

Municipal clerks deliver the amended returns and other documents to the county, school district and special purpose district no later than 4:00 p.m. on the Monday after the election. See Routing above.

Municipalities that use e-pollbooks will need to work with their school district and county clerks to determine whether the poll book needs to be printed or transmitted electronically for delivery.

### *WisVote Related Notes*

#### 1. Self-Providers

- a. After the municipal board of canvass, Self-Providers must update office holders in WisVote with new or re-elected officials for municipal offices.
- b. For more information about entering office holders in WisVote, see the WisVote User manual, which is available in the WEC Learning Center.

#### 2. Reliers

After the municipal board of canvass, Reliers must ensure their Provider receives a copy the Certification of the Board of Canvassers or a list of municipal contest winners for entry into WisVote.

#### 3. Providers

- a. Providers must update the officer holders in WisVote with new or re-elected officials for municipal offices in a relying municipality.
- b. Counties are responsible for entering the office holders for county and school district offices.
- c. For more information about entering office holders in WisVote, see the WisVote User manual, which is available in the WEC Learning Center.

### Certificate of Election

1. The municipal clerk shall promptly issue a Certificate of Election (EL-153) to each person elected to any municipal office after the deadline for filing a

petition for recount has passed, three business days following the certification by the municipal board of canvassers.

2. When a valid petition for a recount is filed, the municipal clerk may not issue the Certificate of Election (EL-153) for the office in question until the recount has been completed and the time allowed for filing an appeal has passed.
  - a. An appeal may be filed in the circuit court within five business days after completion of the recount by the board of canvassers.
  - b. If an appeal is filed in the circuit court, the municipal clerk shall not issue the Certificate of Election (EL-153) until after the appeal is decided.

Wis. Stat. § 7.53(4).

### Absentee List Maintenance

Wisconsin law provides electors the option to request that absentee ballots be sent to them automatically for every election within a calendar year (or automatically for every election for indefinitely confined voters). However, the law also requires the elector to return a ballot each time a ballot is sent to them, otherwise the application may be canceled. If an elector with a calendar year absentee request does not return a ballot for an election, the elector must contact the clerk in writing to request continuation of their calendar year absentee ballot request. Clerks must reconcile their absentee ballot logs to identify voters who did not return a ballot and cancel their absentee applications accordingly. Wis. Stat. § 6.86(2m)(a).

#### *Regular Absentee Electors - Calendar Year Requests*

1. At each primary election, spring election, general election or special election, the clerk shall determine if any voters with a calendar year request failed to return a ballot.
  - a. A ballot is considered “returned” if it was returned to the clerk’s office or polling place in the certificate envelope regardless of whether that ballot was ultimately counted or rejected.
2. The clerk shall remove from the list the name of each person who:



- a. Did not return a ballot for a primary election, spring election, general election, or special election.
    - i. The canceled absentee voter may request reinstatement of their calendar year request if their application was cancelled.
  - b. Requests their name be removed from the list.
  - c. No longer qualifies as an elector (upon receipt of reliable information).
3. If the cancellation is not at the voter's request, the clerk shall send a notice within 5 days of the cancellation, if possible.

Wis. Stat. § 6.86(2m)(a), (b).

*Indefinitely Confined Electors*

1. At each spring election, general election or special election, the clerk shall determine if any voters from the indefinitely confined list failed to return a ballot.
  - a. A ballot is considered "returned" if it was returned to the clerk's office or polling place in the certificate envelope regardless of whether that ballot was ultimately counted or rejected.
2. The clerk shall send a 1st class letter or postcard informing the voter that his or her name will be removed the list unless the voter applies for renewal within 30 days.
  - a. Renewal can be accomplished by any written notification.
3. The clerk shall remove from the indefinitely confined list the name of each person who:
  - f. Did not return a ballot for a spring election, general election or special election, was sent a 30-day notice and did not renew the application by the deadline.
  - g. Requests their name be removed from the list.

h. No longer qualifies as an indefinitely confined elector (upon receipt of reliable information).

i. The clerk shall send a notice within 5 days of the cancellation, if possible.

Wis. Stat. 6.86(2).

*Military and Permanent Overseas Electors*

1. Military and Permanent Overseas electors may request to receive all ballots in a calendar year.
2. Military and Permanent Overseas electors' absentee applications are not subject to cancellation for failure to return a ballot.
3. Military or Permanent Overseas electors' applications may be canceled early if:
  - a. The elector requests their absentee application be canceled.
  - b. The clerk receives reliable information that the elector no longer qualifies as a military or overseas elector.
    - i. Military electors continue to be treated as military electors for 28 days after their date of discharge, termination of service, or employment that qualifies them for military elector status.
4. If the cancellation is not at the voter's request, the clerk shall send a notice within 5 days of the cancellation, if possible. Wis. Stat. § 6.22(4)(a), (f), (h), and §6.24(4)(c).

Frequently Asked Questions

1. *When may the municipal clerk issue certificates of election to winning candidates?*

The municipal clerk shall issue certificates of election once the deadline for petitioning for a recount has passed, and there is no recount or litigation pending. The clerk may either mail or personally deliver the certificates to the winning candidates.

4. *May a person serve on the board of canvassers if that person is a candidate for an office to be canvassed by that board?*

No person may serve on the board of canvassers if that person is a candidate for an office being canvassed by the board, except a municipal clerk running unopposed that does not have an opponent whose name appears on the ballot. If the clerk is a candidate at an election being canvassed and has an opponent, the presiding officer of the municipality shall designate another qualified elector of the municipality to serve in lieu of the clerk for that election.

5. *May a relative of a candidate serve as a member of the Board of Canvassers?*

The WEC has concluded that the Ethics Code for Local Public Officials prohibits an election inspector from working at a specific election under circumstances in which a candidate's success or failure to win election would affect the inspector financially, including if a candidate is a spouse or immediate family member of the election inspector. *(Violations of the Ethics Code for Local Public Officials are enforced by local district attorneys. Therefore, this opinion is advisory and is not binding on district attorneys who are responsible for making determinations based upon individual facts and circumstances.)*

6. *May the board of canvassers open a sealed ballot bag?*

During an open session of the board of canvassers, the board may open the bag to remove forms improperly placed in the ballot bag or to correct errors identified during the canvass process. The opening of bags should be clearly documented in the minutes and the bags must be resealed with a tamper-evident seal. The number of the new seal must be documented on the Ballot Bag Certificate (EL-101), in the minutes and on any security documentation.

7. *What happens if, on examination, any of the returns received are so informal or defective that the board cannot intelligently canvass them?*

If any information is incomplete or inaccurate (for example, if the number of votes does not match the number of voters on the poll list, there is no Inspectors' Statement, etc.) the board may dispatch messengers to obtain complete and correct information from inspectors and election inspectors may be called in to correct errors.

## Supplies Checklist for Processing Provisional Ballots

- Paper and Pens**
- Empty Ballot Bags or Containers and Ballot Container Certificates (EL-101)**
- New Envelope for Used Provisional Certificate Envelopes**  
*This can be a large envelope containing a certificate similar to the EL-103.*
- New Envelope for Defective/Objected To Provisional Ballots**  
*(Or Defective and Objected to Provisional Ballots can be bundled separately rather than placed in an envelope.)*
- Record of Activity (EL-104P)**  
*The MBOC records any noteworthy incidents or decisions on the EL-104.*
- Blank Challenge Documentation (EL-104c)**  
*Observers or MBOC may challenge an elector's right to vote. Please See Challenging Electors section of the Election Day manual for challenge procedures.*
- New Tally Sheets (EL-105)**  
*Votes are tallied on duplicate original tally sheets; two tally sheets each for federal, state and county offices and referenda; municipal offices and referenda; school district offices and referenda; special purpose district offices or referenda.*
- Statement of the MBOC (EL-106P)**  
*A reconciliation and certification completed by the MBOC when processing of provisional ballots is complete.*
- New Provisional Ballot Carrier Envelope (EL-108)**
- New Provisional Ballot Certificate Envelopes (EL-123)**
- Privacy container**  
*A box or other container in which processed ballots are placed and shuffled before tallying.*

**Election Materials from Each Reporting Unit**

- Municipal copy of the poll lists (EL-107)**  
*For reference only.*
- Provisional Ballot Reporting Form(s) (EL-123r)\***  
*From Election Day and as processed by the municipal clerk.*
- Provisional ballots secured in a ballot bag**

**\*NOTE: Provisional Ballot Reporting Forms on which voter numbers are recorded at the meeting of the MBOC must be retained for 22 months.**

*If conducting a municipal canvass for municipal offices and referenda, please see the Election Day Manual for canvass procedures and necessary materials.*



## RECOUNTS

### Summary

A recount is the exclusive remedy to test the right of a candidate to hold office based on the number of votes cast at an election. Any candidate voted for may request a recount of the office to which he or she was seeking election. Likewise, any elector who voted on a referendum may request a recount of the referendum. The Wisconsin Elections Commission (WEC) has prepared a detailed set of procedures for conducting recounts. Municipal clerks may obtain a copy of the *Recount* manual from the WEC website. A copy of the manual should be made available to all affected candidates and members of the board of canvassers.

### Procedures

#### *Recount Petition*

Immediately after the election results are known, clerks should determine whether there is a possibility of a recount. While clerks are not required to inform potential petitioners of their right to a recount, they should make every effort to have the information available to interested persons. It is important to provide all individuals with the same information. The best approach is to provide an interested person with as much information as possible.

The Wisconsin Elections Commission has developed a sample Recount Petition (EL-186) that is available on the WEC website.

1. The recount petition must be filed no later than 5:00 p.m. on the 3<sup>rd</sup> business day following certification by the board of canvassers.  
Wis. Stat. § 9.01(1)(a)(1).
2. The petition must be sworn under oath.

The petition may simply allege that the petitioner believes that a mistake was made in the conduct of the election. If the petitioner wants *specific* allegations of fraud or election irregularities investigated, he or she must set forth those allegations in the petition. Wis. Stat. § 9.01(1)(a)(1).

## *Determining Recount Fees*

1. If 4,000 or fewer votes are cast:

No fee is required if the difference in the total votes cast between the leading candidate and those cast for the petitioner or between the affirmative and negative votes cast at a referendum is less than 10. If the difference is at least 10 votes, a fee is required.

**Note:** In elections where voters are asked to vote for more than one candidate for a position, the “leading candidate” is the candidate who received enough votes to fill the last available position. For example, at a school board election where a voter is asked to select three candidates, the “leading candidate” would be the candidate who won the last seat (with the third-most votes), not the candidate who received the most votes.

2. If more than 4,000 votes are cast:

No fee is required if the difference in the total votes cast between the leading candidate and those cast for the petitioner or between the affirmative and negative votes cast at a referendum is no more than one quarter of one percent (.25%). If the difference is greater than .25%, the petitioner must pay a fee.

When a fee is required, the cost of the recount should be estimated by the clerk and pre-paid by the petitioner in cash or in another form of payment acceptable to the filing officer at the time of filing the recount petition. Wis. Stat. § 9.01(1)(ag)3.

## *Conducting the Recount*

The proper board of canvassers shall reconvene no earlier than 9:00 a.m. on the day following delivery of notices to all candidates and no later than 9:00 a.m. on the day after the deadline for filing the petition for recount.

Wis. Stat. § 9.01(1)(ar)(3).

1. The municipal clerk may choose a substitute member to serve on the recount board of canvassers when an original member is unable to serve. Wis. Stats. §§ 7.53(1)(b) and (2)(a) and, 7.60(2).
2. The board of canvassers must allow the candidates or their representatives to observe the proceedings and to raise any objections to the procedure of the recount or to the ballots on their merits.



3. The board of canvassers is responsible for ensuring that the recount is conducted in an orderly manner and not interfered with by the candidates, their representatives, or the media.
4. Detailed minutes of the recount proceedings are required by law.  
Wis. Stat. § 9.01(5).
  - a. The minutes must include a record of objections, all offers of evidence, all exhibits, and all specific findings of fact regarding any irregularity discovered during the recount.
  - b. A copy of the minutes of any recount must be provided to the filing officer and to the Wisconsin Elections Commission.
  - c. A sample format for keeping recount minutes is set out in the Recount manual.

### *Tabulating Method*

Unless a court orders otherwise, Wisconsin law permits the board of canvassers to decide to tabulate the results of the recount either by hand or by using automatic tabulating equipment. The board of canvassers may also count by hand for some wards while using automatic tabulating equipment to tabulate other wards.

Wis. Stat. § 5.90(1).

1. The board of canvassers shall test any automatic tabulating equipment to be used before the recount.
2. Any candidate or any elector when voting at a referendum may, by the next day after the deadline for requesting a recount, petition the circuit court for an order requiring ballots to be counted by hand or by another method approved by the court.
3. If municipalities employ direct recording electronic (DRE) voting equipment, the board of canvassers shall perform the recount using the voter verified paper audit trail (VVPAT) cast by each elector, as generated by the equipment.

## *Appeals*

1. An appeal of the recount determination may be filed in circuit court within five days after the completion of the recount.
2. The filing officer may not issue a certificate of election until the deadline for filing all appeals has passed and the election results are final. Wis. Stat. §§ 9.01(6), (7), (8) and (9).

## Frequently Asked Questions

1. *If a recount fee is required, must it be collected before starting the recount?*

If the petitioner is required to pay a fee, the clerk must provide the petitioner with an estimate of the total cost of the recount and the petitioner must pay that amount at the time that he or she files the petition for the petition to be considered valid. If the actual cost of the recount is greater than the fee imposed, the petitioner shall pay any balance owed within 30 days after the clerk provides the petitioner with a written statement of the amount due. If the actual cost of the recount is less than the fee imposed, the clerk shall refund the balance within 30 days of the board of canvassers' final determination.

2. *Are recount proceedings open to the public?*

Recounts are open to the public and require proper notice under the open meetings law. Participants and observers must be allowed to view and identify all materials and ballots. However, only members of the board of canvassers may touch any of the materials or ballots. The board of canvassers is responsible for ensuring the recount is conducted in an orderly manner and not interfered with by the candidates, their representatives, or the media.

3. *Are candidates whose office is involved in recount required to be notified?*

The municipal clerk is responsible for informing all candidates of the time and location of the recount. The recount should not begin until the board of canvassers has determined that these notices have been given.

## RECALL ELECTIONS

### Summary

Wisconsin law permits voters to recall elected officials under certain circumstances. Recall is an opportunity for voters to require elected officials to stand for election before the end of the official's term. No petition for recall of an officer may be offered for filing before the expiration of one year after commencement of the term of office for which the officer is elected. The Wisconsin Elections Commission (WEC) staff has prepared a manual, *Recall of Local Elected Officials*, which can be found on the agency website.

### Procedures

#### *Registration Required*

The individual or committee petitioning the recall must be registered.

1. Before a recall petition may be circulated, the individual or committee seeking the recall of an elected official must file a Campaign Registration Statement (CF-1) with the filing officer.
2. The Campaign Registration Statement (CF-1) must clearly indicate that the committee is registering as a recall committee and identify the officeholder(s) it seeks to recall.
3. A statement of intent must be attached to the Campaign Registration Statement (CF-1) form indicating:
  - a. The petitioner's intent to circulate a recall petition
  - b. The name of the officeholder for whom recall is sought
  - c. The reason for the recall which is related to the official responsibilities of the officeholder, the same reason must appear on the petition

4. No signature on a recall petition is valid until the Campaign Registration Statement (CF-1) and a statement of reasons for the recall has been filed with the filing officer.

Wis. Stat. §9.10(2)(d).

### *Petition Signatures*

1. The filing officer with whom recall petitions are filed is required to determine the appropriate number of signatures and certify that amount to any interested person on request.
2. Recall petitions must contain signatures of qualified electors equal to at least 25% of the vote cast for the office of governor at the last election in the same district or territory as that of the officeholder being recalled.

Wis. Stat. § 9.10(1)(b).

### *Sample Recall Petition (EL-170)*

A sample Recall Petition (EL-170) has been prepared by the Wisconsin Elections Commission and is available on the agency website.

1. Any recall petition shall be identified by the words “RECALL PETITION” at the top of the form.
2. All recall petitions for local elected officials shall contain a statement of reasons for which the recall is sought. The reasons for the recall must be related to the officeholder’s official duties.
3. Petitions seeking recall of more than one elected official must be prepared and filed separately.

Wis. Stat. § 9.10(2).

### *Circulation Time Period*

A recall petition may be circulated after filing the Campaign Registration Statement (CF-1).

1. The recall petition must be filed no later than 5:00 p.m. on the 60<sup>th</sup> day commencing after registration.

After the petition has been offered for filing, no name may be added or removed.

2. Only signatures dated within the circulation period may be counted.

Wis. Stat. § 9.10(2)(d).

### *Candidate Eligibility*

1. The official against whom the petition is filed shall be a candidate at the recall election without nomination, unless the official resigns within ten days after the certification of the recall petition.
2. In order to have their names placed on the ballot at the recall election, candidates, other than the incumbent, must file nomination papers, declarations of candidacy, and campaign registration statements no later than 5:00 p.m. on the 4<sup>th</sup> Tuesday before the election.

Wis. Stat. § 9.10(4)(e).

### *Recall Primary*

1. A recall primary will be held in nonpartisan recall elections if more than two candidates compete for an office.
2. The names of the two candidates who receive the highest number of votes in the recall primary will be certified and printed on the ballot for the recall election.
3. A recall election will not be held if a candidate receives a majority (50% plus 1) of the votes at the recall primary.
4. Write-in votes are permitted only at a recall primary or at a recall election in which no primary is held.

Wis. Stat. §9.10(4)(f) and (g).

## *Recall Election*

1. The recall election is held on the Tuesday of the 6<sup>th</sup> week after the recall petition is certified.
2. If a primary is required, the primary is held on Tuesday of the 6<sup>th</sup> week after the recall petition is certified, and the recall election is held on Tuesday of the 4<sup>th</sup> week after the primary election.

Wis. Stat. § 9.10(4)(d)

## Frequently Asked Questions

1. *May individuals petition for recall if the office holder has been in office for less than one year for the current term being served?*

No petition for recall of an officer may be offered for filing before the expiration of one year after commencement of the term of office for which the officer is elected. The officer's actual time in office is not relevant. A petition may be circulated before the expiration of one year (subsequent to registration), but may not be offered for filing until one year of the term of office has elapsed.

2. *Are filing officers required to publish a notice for recall elections like all other elections?*

Recall elections are noticed, conducted, and canvassed like all other regular elections administered by the filing officer.

3. *Who may circulate recall petitions?*

Any U.S. citizen, age 18 years or older and not disqualified from voting under the impediments listed in Wis. Stat. § 6.03, may circulate recall petitions.

## OTHER ELECTION MATERIALS

### Cost of Elections

The following is a breakdown of who is responsible and who pays for certain election-related costs. Wis. Stat. § 5.68.

<b>COST OF ELECTIONS</b>				
<b>Item</b>	<b>County Clerk is responsible</b> <i>(for Federal, State, and County Elections and State and County Referenda)</i>	<b>Municipal Clerk is responsible</b> <i>(for Municipal Elections and Referenda)</i>	<b>School Clerk is responsible</b> <i>(for School District Elections and Referenda)</i>	<b>Who Pays?</b> <i>(See "Special Notes")</i>
<i>Polling Places</i>				
Establishing and changing Polling Places		X		Municipality
<i>Notices</i>				
Type A	X	X	X	Jurisdiction responsible - Can be prorated proportionately if notice is combined with other jurisdictions.
Type B	X	X	X	Jurisdiction responsible - Can be prorated proportionately if notice is combined with other jurisdictions.
Type C	X	X	X	Jurisdiction responsible
Type D		X*	X <sup>+</sup>	<i>Municipality</i> --Can be prorated proportionately if notice is combined with other jurisdictions. <i>School district for special<sup>+</sup> school district election event.</i>
Type E		X*	X <sup>+</sup>	<i>Municipality</i> --Can be prorated proportionately if notice is combined with other jurisdictions. <i>School district for special<sup>+</sup> school district election event.</i>
<i>Polling Place Notices</i>				
EL-111, EL-112, EL-114, EL-115, EL-117, EL-118		X		Municipality

<b>COST OF ELECTIONS</b>				
<b>Item</b>	<b>County Clerk is responsible</b> <i>(for Federal, State, and County Elections and State and County Referenda)</i>	<b>Municipal Clerk is responsible</b> <i>(for Municipal Elections and Referenda)</i>	<b>School Clerk is responsible</b> <i>(for School District Elections and Referenda)</i>	<b>Who Pays?</b>
<i>Supplies</i>				
Absentee Ballot Mailing Envelopes, Certificate Envelopes and Postage		X		Municipality
Used Certificate Env. of Absentee Elector (EL-103)	X	•	❖	Jurisdiction responsible for providing materials
Certificate of Rejected Absentee Ballots Env. (EL-102)	X	•	❖	Jurisdiction responsible for providing materials
Provisional Ballot Certificate Env. (EL-123)		X		Municipality
Provisional Ballot Reporting Form (EL-123r)	X	•	❖	Jurisdiction responsible for providing materials
Inspectors' Certificate of Provisional Ballots Env. (EL-108)	X	•	❖	Jurisdiction responsible for providing materials
Inspectors' Statement (EL-104 & 104c)	X	•	❖	Jurisdiction responsible for providing materials
Write-in Candidate tally sheet (modified EL-105) 2 per reporting unit	X	X	X	Jurisdiction responsible for providing materials
Pre-printed registration list from WisVote		X		Municipality-may be prorated proportionately among jurisdictions
Election Day Reg. Voter List & Supplemental List (EL-107)	X	•	❖	Jurisdiction responsible for providing materials
Voter numbers	X	•	❖	Jurisdiction responsible for providing materials-may be prorated proportionately among jurisdictions
"Return to County" "Return to Municipality" "Return to S.D.," Envs.		X		Municipality
<i>Ballots &amp; Associated Materials</i>				
Paper (Hand Count)	X	X	X	Jurisdiction required to provide ballots
Optical Scan	X	X	X	Prorated proportionately among jurisdictions
Ballot Bags w/certificate (EL-101), ties/seals, "chain of custody" documentation	X	X	X	Jurisdiction responsible (Where op scan ballots are used, cost is prorated among jurisdictions.)



<b>COST OF ELECTIONS</b>				
<b>Item</b>	<b>County Clerk is responsible</b> <i>(for Federal, State, and County Elections and State and County Referenda)</i>	<b>Municipal Clerk is responsible</b> <i>(for Municipal Elections and Referenda)</i>	<b>School Clerk is responsible</b> <i>(for School District Elections and Referenda)</i>	<b>Who Pays?</b>
<i>Labor</i>				
Election Inspectors, EROs, Tabulators SVDs		X		Municipality for all regularly scheduled elections* OR jurisdiction calling special election.
Board of Canvassers, Tabulators	X	X	X	Jurisdiction requiring canvass
Messengers		X (when delivering materials to county or school district)		Municipality
	X (When delivering materials back to municipality)		X (When delivering materials back to municipality)	Jurisdiction delivering materials
<i>Equipment</i>				
Voting Machines/Systems, ballot boxes, voting booths, pens, pencils		X		Municipality
Set up of machines (moving machines from one place to another)		X		Municipality
Maintenance of machines (making sure machines are in good repair; repairing when break down occurs)		X		Municipality
Preparation and programming of electronic voting systems	X			Jurisdiction Responsible (When programming includes municipal or other district offices, the municipality or district pays proportionately.)

- **Municipal Clerk** supplies (and pays for) when there are no federal, state or county elections.
- ❖ **School Clerk** supplies (and pays for) when there are no federal, state, county or municipal elections.

**Special Notes:**

- If no other level of government is involved in a school or special district election, *whether regularly scheduled election\* or special election+*, the district shall pay for all costs of the ballots, supplies, notices and other materials. Wis. Stat. § 5.68(2).
- When a county, school district, or special purpose district holds a special election *at a time other than a regularly scheduled election,* \* all costs of the election are the responsibility of the jurisdiction calling the special election (all costs of the ballots, supplies, notices and other materials, *including* the cost of the polling place and election inspector(s). Wis. Stats. §§ 5.68(2), (5), 7.03(1)(bm).

\* Regularly scheduled elections are the February spring primary and April spring election and, in even-numbered years, the August partisan primary and November general election.

+A Special Election is an election scheduled outside the four regularly scheduled election days.

\*Regularly scheduled elections are the February spring primary and April spring election and, in even-numbered years, the August partisan primary and November general election.

+A Special Election is an Election scheduled outside the four regularly scheduled election days.

**Destruction of Materials**

The following chart is designed to assist clerks in determining when to destroy election materials. Materials and supplies associated with an election may be destroyed according to the following chart unless there is a recount, notice of an election contest, or any contest or litigation pending with respect to the election. For specific dates please see the *Calendar of Election and Campaign Events* from the Wisconsin Elections Commission. All materials and documentation associated with a federal election must be retained at least 22 months after the election. Wis. Stat. § 7.23.

<b>Materials</b>	<b>Destruction Date</b>
Contents of a discarded ballots box, such as discarded partisan primary ballots	3 business days after all canvasses are completed for an election*
Unused ballots	3 business days after all canvasses are completed for an election*
Voter number tickets or slips	90 days after an election
	22 months after a federal election***
Memory devices, test decks, results tapes	14 days after a primary
	21 days after an election**
Voted Ballots (state, county, local offices)	30 days after an election
Voted Ballots (federal offices)***	22 months after a federal election
Applications and certificate envelopes for absentee ballots	90 days after an election
	22 months after the election for federal election ballots ***
Forms associated with the election such as tally sheets, Inspectors' Statements (EL-104), Declarations of Candidacy (EL-162), and nomination papers, incomplete EL-131s or voter applications lacking POR.	90 days after an election
	22 months after a federal election***
Official canvass statements	10 years after an election
Voter lists (aka poll lists, poll book lists)	22 months after an election
Absentee Ballot Log and Provisional Ballot Reporting Form (EL-123r)	90 days after an election when votes <b>are not</b> recorded by the MBOC (22 months after a federal election***)
	22 months after an election when votes <b>are</b> recorded by the MBOC
Inactivated voter registration applications	4 years after the cancellation
Election notices	1 year after the election
	22 months after the federal election***

Proofs of publication of notices and correspondence relative to publications	1 year after the election
	22 months after a federal election***
Clerk Materials (e.g. late absentee ballots)	90 days after an election 22 months after a federal election***
Notifications of Noncandidacy (EL-163)	6 years after termination by the registrant
Election Voting and Registration Statistics Reports (EL-190)	22 months after the election for which they were created

\* Unless a petition for recounts is filed, in which case the materials must be retained.

\*\* Before units can be cleared or erased, the information must be transferred to a disk or other recording medium and retained for 22 months. This provision applies to elections that contain a federal office. For additional information on retention requirements for electronic media please see the clerk communication dated June 9, 2010, available on the G.A.B. website.

\*\*\* Federal offices are President of the U.S., U.S. Senator and U.S. Representative in Congress.

### Electronic Conversion of Election Records

The Legislature, in Wis. Stat. § 7.23, established a schedule for the destruction of election materials, but it did not provide in that statute, or in any other elections statute, a schedule or timetable for the conversion of elections records from “hard copy” to electronic format or to microfiche.

The statute that authorizes the conversion of hard copies, Wis. Stat. § 19.21(4)(c), reads as follows:

*(c) Any local governmental unit or agency may provide for the keeping and preservation of public records kept by that governmental unit through the use of microfilm or another reproductive device, optical imaging or electronic formatting. A local governmental unit or agency shall make such provision by ordinance or resolution. Any such action by a subunit of a local governmental unit or agency shall be in conformity with the action of the unit or agency of which it is a part. Any photographic reproduction of a record authorized to be reproduced under this paragraph is deemed an original record for all purposes if it meets the applicable standards established in §§ 16.61 (7) and 16.612. This paragraph does not apply to public records kept by counties electing to be governed by Chapter 228.*

At its July 18, 2007 meeting, the former State Elections Board formally adopted the recommendation that counties or municipalities who convert their elections or campaign finance records from paper or “hard-copy” to microfilm or electronic format must retain the “hard copies” of those records for at least

two years after the election immediately following the creation of those records, or for that period of time requested by the district attorney for that county or whose jurisdiction includes that municipality.



# WARDS, DISTRICTS, REPORTING UNITS & ANNEXATIONS

## Summary

Understanding wards and reporting units is essential to conducting elections. The district makeup of wards influences ballot styles, poll lists, voting equipment programming and reporting of election results. When a city or village annexes territory from a town, it is important to understand how the annexed territory will or will not fit into your existing ward plan.

## Wards and Districts

The establishment of wards for purposes of elections and representation is provided in Wis. Stat. § 5.15. Wards are the building blocks from which congressional, state senate, assembly, county supervisory and aldermanic districts are created. All territory, even if unpopulated, must be contained in a ward. Wis. Stat. § 5.15(1)(b).

Within a single ward, there can be only **one** of each of the following districts: congressional, state senate, assembly and county supervisory district. Wis. Stat. § 5.15(6)(a). In cities, each ward may contain only one aldermanic district. (School district boundaries do not follow ward lines, so there may be more than one school district in a given ward.) Wis. Stat. § 5.15(2)(bm).

A “district” may be one ward or a group of wards. Congressional, state senate and assembly districts are comprised of many wards and cross municipal and county lines. County supervisory districts contain wards in a number of municipalities within the county. Aldermanic districts may be made up of several wards or just one ward within a city. Large or small, all districts are built from wards.

## Reporting Units

Election results are reported by “reporting units.” A reporting unit may be one ward, or a group of wards combined by resolution of the governing body. In places where the population is less than 35,000, the governing body may provide in the resolution to combine the election results for each set of combined wards. The governing body of a municipality of 35,000 or more may by resolution combine election returns of a ward with an adjacent ward if the ward has a population of 20

or less and the total population of the combined wards would not exceed that municipality's population range for wards. Wis. Stat. § 5.15(6)(b).

In order to combine two or more wards into one reporting unit, each ward must be made up of like districts. The reporting units for nonpartisan primaries and elections may differ from the reporting units for a partisan primary or general election. Clerks must be mindful of the district composition of the wards within their municipality. Wis. Stat. § 5.15(6)(b). Here is an example:

City of Smith has 10 wards, divided into four aldermanic districts. The City is also located in two Assembly Districts: Assembly District 3 and Assembly District 5 (shaded wards).

<b>Spring Primary and Election</b>	
<b>Aldermanic Dist.</b>	<b>Ward</b>
1	1
1	2
1	3
2	4
2	5
2	6
3	7
3	8
4	9
4	10

For the spring nonpartisan primary or election, the wards with like districts would be combined in reporting units that represent the four aldermanic districts, as illustrated above.

- Ald. Dist. 1 = wards 1-3
- Ald. Dist. 2 = wards 4-6
- Ald. Dist. 3 = wards 7 & 8
- Ald. Dist. 4 = wards 9 & 10

<b>Fall Primary and Election</b>		
<b>Ward</b>	<b>Congressional Dist.</b>	<b>Assembly Dist.</b>
1	8	5
2	8	3
3	8	3
4	8	3
5	8	5
6	8	3
7	8	3
8	8	5
9	8	5
10	8	3

However, the same reporting unit plan could not be used in a fall partisan primary or election because the wards that make up each aldermanic district are in two different assembly districts, as illustrated in the Fall Primary and Election chart.

Attempting to report by aldermanic district would result in each reporting unit containing Wards in different assembly districts. (Assembly Dist. 5 wards are shaded.)

- Aldermanic District 1 = Wards 1, 2, 3
- Aldermanic District 2 = Wards 4, 5, 6
- Aldermanic District 3 = Wards 7 & 8
- Aldermanic District 4 = Wards 9 & 10



In order for the fall reporting units to contain wards of like districts, the configuration would be:

Wards 1, 5, 8, 9 (Assembly District 5)

Wards 2, 3, 4, 6, 7, 10 (Assembly District 3)

## Annexation

Annexation is the process by which a city or a village acquires unincorporated territory from a neighboring town and is governed by Wis. Stats. Ch. 66. The residents of unincorporated territory may petition the governing body of a contiguous city or village for “Direct Annexation” or “Annexation by Referendum” of the territory into the city or village. A city council or village board may also initiate annexation in several different ways, including passing an ordinance to annex a town island or territory owned by the city or village, or by passing a resolution to apply to a circuit court for approval to conduct an annexation referendum. Neighboring municipalities may also resolve a boundary dispute by a stipulation which results in property being annexed to a city or village. The result of any of these procedures is that the new territory becomes a part of the annexing municipality.

For more information regarding the various methods of annexation, please refer to the “Annexation Methods” page on the Intergovernmental Relations Division’s portion of the Wisconsin Department of Administration website.

<https://doa.wi.gov/Pages/LocalGovtsGrants/AnnexationMethods.aspx>

A completed annexation changes the boundaries of the municipality gaining territory and the municipality losing territory. Annexation may introduce new districts to the municipality gaining territory or eliminate districts in the municipality losing territory. While the focus of annexation by governing bodies is often accommodating future development on property that may be currently vacant, the clerks of both municipalities must be aware of the effect the annexation will have on elections and representation in their respective municipalities.

## When Annexation Necessitates the Creation of a New Ward

As mentioned earlier, wards are the smallest units from which congressional, assembly, county supervisory and aldermanic districts are created. A single ward

may contain only one of each of these types of districts. All territory, even if unpopulated, must be contained in a ward. Wis. Stat. § 5.15(1)(b) and (6)(a). This basic principle also applies to annexation. The municipality annexing the territory may “absorb” the annexed territory into an existing, contiguous ward only if the annexed territory is in the same congressional, assembly and county supervisory districts as the ward to which it is added. *If the congressional, assembly or county supervisory districts in the annexed territory are different from the districts in the ward to which the territory is contiguous, **a new ward must be created** for the annexed territory.*<sup>9</sup> Wis. Stat. § 5.15(7). Territory cannot be added to an existing non-contiguous ward, regardless of district composition, except in the case of “Island Territory.”<sup>10</sup> Island territory is defined as “...territory surrounded by water, or noncontiguous territory which is separated by the territory of another municipality or by water, or both, from the major part of the municipality to which it belongs.” Wis. Stat. § 5.15(2)(f) 3.

### Determining Where Annexed Electors Vote

The annexed territory becomes part of the municipality annexing the territory. If the territory is able to be absorbed into an existing ward, voters in the newly annexed territory will vote in the same municipal district (town, city aldermanic, or village trustee in a few cases) as the other voters in the ward. If a new ward is created, the new residents vote in the municipal district to which they are assigned. Regardless of whether a new ward is required or not, newly annexed residents will continue to vote in the same congressional, state senate and assembly district as they did before the annexation. Wis. Stat. § 5.15(7). Whether the newly annexed residents continue to vote in the same county supervisory district depends on whether the county adopts a revised division ordinance moving the annexed

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<sup>9</sup> Only a county has the authority to redraw its county supervisory district boundaries between decennial redistricting to move residents of one county supervisory district to another. The county board *may* adopt a revised division ordinance moving the annexed territory into the same supervisory district as the territory to which it is annexed. *See* Wis. Stat. § 59.10(3)(c).

<sup>10</sup> ...Territory within each supervisory district created by the plan shall be contiguous, except that one or more wards located within a city or village which is wholly surrounded by another city or water, or both, may be combined with one or more noncontiguous wards, or one or more wards consisting of island territory as defined in s. 5.15 (2) (f) 3. may be combined with one or more noncontiguous wards within the same municipality, to form a supervisory district. Wis. Stat. § 59.10(3)(b), 2.

territory into the same supervisory district as the ward to which it is annexed. Wis. Stat. § 59.10(3)(c).

### Transferring Voters

The clerk of the municipality losing territory must photocopy each of the original Voter Registration Applications (EL-131s) and current absentee ballot applications of the voters residing in the annexed territory. Each photocopy is marked “transferred.” If the municipality has adopted the records retention periods set forth in Wis. Stat. § 7.23, the photocopied Voter Registration Applications are marked for final disposition four years from the effective date of the annexation, and the photocopied absentee ballot applications are marked for destruction 90 days (non-federal election) or 22 months (federal election) from the date of the most recent election to which the absentee ballot applications applied. If the municipality has adopted longer records retention periods than those specified in Wis. Stat. § 7.23, the Voter Registration Applications and absentee ballot applications are marked for final disposition consistent with such other specified records retention period policy.

The original forms are forwarded to the clerk of the municipality gaining the territory. When the clerk of the municipality who has lost voters forwards a valid absentee ballot request to the clerk who has gained the voters, the “gaining” clerk should honor the request for subsequent elections as requested by the voter.

The clerk of the “gaining” municipality must notify the newly annexed voters of the location of their new polling place, ward number and voting districts.

### Annexation and Polling Places

If the municipality annexing the territory is required to create a new ward because of differing districts, the municipality’s governing body may adopt a resolution, pursuant to Wis. Stat. § 5.15(6)(b), combining the new ward with existing wards for purposes of voting at a common polling place. A new polling place would not be required. If the annexed territory were absorbed into an existing ward, every voter in the newly configured ward must vote at the same polling place because every voter in any ward has to vote at the same polling place.

## Notifying Governmental Units and Other Entities of Annexation

Annexation is not a process performed in a vacuum. It is important for municipal clerks to reach out to other affected entities and keep them informed throughout the annexation process. Conversely, the municipal clerks can expect to be contacted by other agencies such as the Wisconsin Departments of Revenue (DOR), Public Instruction (DPI), Transportation (DOT) and Agriculture, Trade and Consumer Protection (DATCP).

Pursuant to Wis. Stat. § 5.05(15) and to facilitate communication to the WEC with respect to annexations, WEC staff has developed the Annexation Checklist & Ward/Voter Information Sheet (EL-100). The EL-100 includes a guide to election administration and WisVote processes required upon completion of a successful annexation. This checklist and guide will help to ensure correct processes are followed, and voters are accurately represented within WISVOTE.

The following agencies must be notified of annexations:

**Agency**

**Documentation**

WEC

Approved Annexation Ordinance and completed Annexation Checklist and Ward\ Voter Information Sheet ([EL-100](#))

WI Dept. of Administration (D.O.A.)

Required to review annexations when:

- The annexed territory is in a county with a population of 50,000 or more.
- The annexation petition is either unanimous consent or one-half approval type of annexation.
- Annexation, Attachment, Detachment Ordinances must contain:
  - 1) Clerk’s certification that the documents are true and correct copies of originals and bear the clerk’s signature.
  - 2) Copy of the ordinance, which must include population of the property being transferred, scale map of the property showing its proximity to the current boundary of the annexing municipality, legal description of the property being transferred, and ordinance effective date.

Contact D.O.A. Division of Intergovernmental Relations, Municipal Boundary Review for more information.  
<http://doa.wi.gov/municipalboundaryreview>

Affected School Districts Copy of approved annexation ordinance

County Register of Deeds Copy of approved annexation ordinance

Area Utilities Copy of approved annexation ordinance

Municipal clerks should always involve the municipal attorney during the annexation process, or consult the Wisconsin Towns Association or League of Wisconsin Municipalities about procedural or legal questions.

## Frequently Asked Questions

1. *Why can't I make unpopulated annexed property part of the contiguous ward even if the districts differ? Nobody votes there anyway.*

Wis. Stat. § 5.15(6)(a) provides "...no ward line adjustment may cross the boundary of a congressional, assembly or supervisory district..." There is no provision in state law that exempts unpopulated territory from this requirement. Ensuring proper ward designation at the time of annexation prevents confusion if vacant land subsequently becomes populated.

2. *If the property being annexed is in the same districts as another ward in the municipality annexing the property, can I "absorb" the annexed property into that ward, even if the ward is not contiguous to the annexed property?*

With the exception of island territory,<sup>10</sup> the answer is "no." Property cannot be made part of an existing ward if it is not contiguous to that ward. Annexed territory can only be absorbed into an existing ward if:

- the territory being annexed is contiguous to the ward, and
- the districts of the annexed territory are the same as the contiguous ward.

Wis. Stat. § 5.15(1)(b) and (7).

3. *All of the districts in the annexed territory are the same as the contiguous ward, except the school district. Do I have to create a new ward if only the school districts are different?*

No. A new ward is not required to be created if the districts of the annexed territory are identical to the contiguous ward, except for differing school districts. Wis. Stat. § 5.15(6)(a).

4. *The districts in the annexed territory are the same as the contiguous ward. The population in the annexed area is currently minimal, but population growth in the area is anticipated. May a new ward be created in anticipation of that expansion?*

Yes. Even though the annexed territory may be absorbed into the contiguous ward, the governing body may choose to make the territory a new ward and aldermanic district when population growth is expected. Wis. Stat. § 5.15(1)(a)1. and (2)(f)4.

5. *The only difference between the annexed territory and the contiguous ward is the County Supervisory district. Can't I just reassign the two voters in the annexed territory to the other County Supervisory District, rather than creating a new ward?*

No. A new ward must be created. The voters in the annexed territory remain in the Supervisory District in which they voted before the annexation unless the county board of supervisors redraws county supervisory district boundary lines to include those voters. Wis. Stat. § 59.10(c).





# GLOSSARY OF ELECTION TERMS

## A

**Absentee Ballot:** a ballot cast by a registered voter who is unable or unwilling to appear at the polling place on Election Day. An absentee ballot application or a written request with all required information must be received by the clerk before issuing an absentee ballot. The ballot must be at the polling place or central count location by 8 p.m. on Election Day with the certification properly completed in order to be counted.

**Absentee Ballot Application (EL-121):** a request from a qualified, registered elector to receive an absentee ballot. Voters may submit a written request in lieu of this form, as long as the request includes the voter's name, residential address, mailing address (if different from residential address), indication of the elections for which the voter desires an absentee ballot, an indication of status as a military voter, permanent or temporary overseas voter (if applicable), a declaration that the voter meets the qualifications to vote, signature and date.

**Absentee Voter:** a registered voter who is unable or unwilling to appear at the polling place on Election Day.

**Accessibility:** refers to the requirement, under state and federal law, to make reasonable accommodations for elderly and disabled voters. This includes providing assistance to eliminate physical barriers to the polling place, acquiring voting equipment that enables all citizens to cast an independent and private ballot in a dignified manner and providing information that enables all citizens to fully participate in the election process. Municipalities must use polling places that are fully accessible, which includes having at least one accessible voting equipment component. Polling place accessibility is evaluated by completing a *Polling Place Accessibility Survey* for each new polling place.

**Accessible Voting Equipment Component:** a device approved by the Wisconsin Election Commission which provides independence and privacy to voters with disabilities.

**Active Candidates:** any candidate with an active registration (not terminated) on file with the filing officer. These candidates may accept contributions and make disbursements from their campaign accounts. This would include candidates required to file finance reports and those claiming the exemption from filing finance reports.

**Address Change:** notification given to a municipal clerk by a registered voter that they have changed their voting address or residence by submitting a new voter registration application. The municipal clerk or the municipal clerk's provider updates the WisVote to reflect the address change information provided by the voter.

**Adjudicated Incompetent:** refers to an individual who is disqualified from voting due to a court ruling that he or she is incapable of understanding the objective of the elective process. No individual may be denied the right to register or to vote on the basis of incompetence unless he or she has been adjudicated incompetent to vote by a court.

**Administrative Rules:** rules promulgated by the agency to administer and implement Wisconsin statutes.

**Audit:** see Post-Election Voting Equipment Audit.

**Audit Trail:** see Voter-Verified Paper Audit Trail.

## **B**

**Ballot Box:** refers to the container or box in which electors place their voted ballots in wards that use paper ballots. The ballot box must be secured by lock or numbered seal.

**Ballot Marking Device:** any technology that allows voters with disabilities and other special needs to mark a ballot privately and independently but does not tabulate votes. Currently, the only ballot marking device approved for use in Wisconsin is the AutoMARK.

**Board of Election Commissioners:** a special board, established in every city with a population over 500,000, that carries out all election powers and duties assigned to the municipal clerk.

## **C**

**Campaign Registration Statement (CP-1):** is required for ballot access. Candidates may file a Campaign Registration Statement (CF-1) at any time, but not later than the deadline for filing nomination papers or not later than 5:00 p.m. on the fifth day after receipt of notification of nomination at a caucus.

**Candidate Registration:** refers to the requirement for all candidates to register by filing a Campaign Registration Statement (CF-1). All candidates, regardless of the nomination procedure used, must file a Campaign Registration Statement (CF-1) and a Declaration of Candidacy (CF-162) for ballot access.

**Canvass:** to examine the Election Day records for completeness and accuracy and make an official determination and certification of the outcome of the election.

**Cast Ballot:** a ballot marked by the voter to reflect their preference for a candidate or referendum and placed in the ballot box.

**Caucus:** a method that may be used by towns and villages for nominating candidates for placement on the spring election ballot. The caucus is open to the public, but only qualified electors of the municipality may nominate and vote for candidates. A person is not required to be a registered voter in order to participate in the caucus. There is no spring primary for town or village offices when the caucus system is used. However, there may still be a spring primary conducted within the town or village for state, county or school district candidates. For more information, see the *Procedures for Nomination of Candidates by Caucus* manual, available on the agency website.

**Central Count:** a voting system that tabulates ballots from multiple reporting units or municipalities at a central location. Voted ballots are secured in ballot containers at the polling place. Secured ballots are then transported to the central counting location for tabulation.

**Central Count, Absentee:** the tabulation of all absentee ballots at a location other than the polling place. The governing body must pass an ordinance to use the separate location. The Wisconsin Election Commission must also be notified when any such ordinance is passed.

**Certification of Circulator:** appears at the bottom of each nomination paper and election-related petition. The circulator's complete address (including municipality of residence) must be listed in the certification. After obtaining signatures of electors, the circulator must sign and date the certification, certifying that he or she personally presented the nomination paper to each signer. Without a complete and correct certification, signatures on a nomination paper or election-related petition cannot be counted.

**Certificate of Election (EL-153):** an official notice sent to the winning candidate. The municipal clerk must promptly issue a Certificate of Election (EL-153) to each person elected to any municipal office after the deadline for filing a petition for recount has passed, three (3) business days following the certification by the municipal board of canvassers.

**Challenged Ballot:** a ballot cast by an elector whose eligibility to vote has been questioned according to the challenge process. The cast ballot is marked with the voter number and "Section 6.95."

**Chief Inspector:** one of the election inspectors at each polling place who directs the conduct of activities assigned to the other election inspectors. In Wisconsin, every polling place is required by Wis. Stat. § 7.30(6)(b), to have a chief inspector who has been appointed by the municipal clerk (or board of election commissioners) and has been certified as a chief inspector by the Elections Commission.

**Confidential Elector:** an elector who is a victim of domestic abuse, sexual assault or stalking and has made a written request to the municipal clerk to not have their personal information on the poll list available to public inspection.

## D

**Deceased List:** a list generated by the Wisconsin Department of Health Services (Vital Records) that lists all recorded deaths in Wisconsin counties for a specific period of time. This is a confidential list that is used by municipal clerks to cross-check data currently in WisVote and identifies voters that have become deceased and need to be cancelled in the WisVote system.

**Declaration of Candidacy (EL-162):** is required for ballot access and may be filed at any time, but not later than the deadline for filing nomination papers or not later than 5:00 p.m. on the fifth day after receipt of notification of nomination at a caucus. The Declaration of Candidacy (EL-162) is required to be notarized.

**Direct Recording Electronic (DRE) Voting Equipment:** a voting system that records votes by means of an electronic display provided with mechanical or electro-optical components that can be activated by the voter; that processes voter selections by means of a computer program; and that records that processed voting data in memory components.

## E

**Election Assistance Commission (EAC):** the U.S. Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The Commission serves as a national clearinghouse and resource for information and review of procedures with respect to the administration of federal elections.

**Election Day Registration (EDR):** refers to the ability of electors to register at the polling place on Election Day. Electors registering on Election Day must complete the Application for Voter Registration (EL-131) and provide proof of residence.

**Election Inspector** (also called a **poll worker**): an election official appointed by the governing body of the municipality who conducts elections under the supervision of the chief inspector and the municipal clerk. Every election inspector must view or attend one training program every two years.

**Electioneering:** any activity intended to influence voting at an election. Electioneering is prohibited on public property within 100 feet of any entrance to a building containing a polling place. This prohibition does not apply to private property.

**End of Line Officer:** an official of the municipality (may be an election inspector, election registration official, employee of the clerk, or police officer) designated by the municipal clerk to stand at the end of the line of individuals waiting to vote, if any, at the time the polls close at 8:00 p.m., per Wis. Stat. § 7.37(13). This person should be designated before Election Day.

**Election Registration Official (ERO):** an election official appointed by the municipal clerk to register voters at the polling place on Election Day, in the clerk's office during in-person absentee voting or at residential care facilities during open registration.

## F

**Filing Officer:** the official with whom ballot access and campaign finance documents for a particular office or referendum are filed.

**First-Time Voter:** an individual who has not voted in Wisconsin.

## G

**General Election:** the election held in even-numbered years on the Tuesday after the first Monday in November to elect U.S. Senators, Representatives in Congress, Presidential electors, State Senators, Representatives to the Assembly, District Attorneys, State Officers other than the

State Superintendent of Public Instruction and Judicial Officers, and County Officers other than Supervisors and County Executives. Wis. Stat. § 5.02(5).

## H

**Help America Vote Act (HAVA):** the Help America Vote Act of 2002 establishes requirements for voting systems used in federal elections and contains key provisions on improving access to polling places and voting systems for persons with disabilities. This law also requires a single, central list of voters under the control of the state.

## I

**Ineligible Voter List:** a list generated by the Wisconsin Department of Corrections that identifies convicted felons currently on probation or parole who are ineligible to vote in an election. This list is required to be at all polling places on Election Day to help election inspectors identify potential ineligible voters attempting to register on Election Day.

## L

**Late Registration:** refers to electors who registered in the clerk's office after the close of registration--the third Wednesday before the election. These electors are issued a Certificate of Registration (EL-133) from the clerk that identifies them as being properly registered, and their names may appear on the supplemental voter list. However, if the names of late registrants do not make it on to the supplemental voter list, the registrant's Certificate of Registration (EL-133) should suffice at the polling place.

**Logic and Accuracy Test:** a public test of automatic tabulating equipment to ascertain that it will correctly count votes for all offices and all measures. Testing must be conducted not earlier than 10 days before Election Day, and public notice is required at least 48 hours in advance of the test. The test must be conducted by processing a test deck for each candidate and on each referendum. An errorless count must be made before the automatic tabulating equipment can be approved for use in the election.

## M

**Mail-In Registration:** electors may register to vote by mail. The elector must complete a Voter Registration Application (EL-131) and mail the completed application to the municipal clerk's office. The application must be postmarked not later than the 20th day (third Wednesday) before the election and must include proof of residence.

**Military Voter:** A "military voter" includes any of the following: (1) members of a uniformed service, (2) members of the merchant marine of the United States, (3) civilian employees of the United States and civilians officially attached to a uniformed service who are serving outside the United States, (4) Peace Corp volunteers, and (5) spouses or voting age dependents of the aforementioned categories who are residing with or accompanying them.

Military electors are exempt from providing proof of residence and are exempt from proof of identification requirements when voting an absentee ballot by mail only.

Of the various types of military voters listed above, Wisconsin law distinguishes two categories of military electors:

ACTIVE – NOT AWAY: A military elector on active duty, who IS NOT ABSENT from the residence where the member is otherwise qualified to vote due to that duty. **Note:** Even though civilian employees and Peace Corps volunteers may be serving outside the U.S. are considered “ACTIVE - NOT AWAY,”

ACTIVE – AWAY: A military elector on active duty who IS ABSENT from the residence where the member is otherwise qualified to vote due to that duty. **Note:** ACTIVE – AWAY does NOT include civilian employees or Peace Corps volunteers.

**MyVote Wisconsin (<http://myvote.wi.gov>):** a website developed by the Wisconsin Election Commission specifically for voters. This website allows voters to look up information regarding elections and voting in Wisconsin, including sample ballots, polling place locations, and current officeholders. Additionally, the website features an online assisted voter registration process for all electors and absentee ballot request and delivery tools for military and permanent overseas electors.

## N

**Nomination Papers:** papers circulated by or on behalf of a candidate seeking ballot access in municipalities that do not nominate candidates by caucus. Candidates must obtain a certain number of valid signatures to qualify for ballot access. For the spring election, nomination papers may not be circulated before December 1<sup>st</sup> and must be filed before 5:00 p.m. on the first Tuesday in January before the election.

## O

**Observer:** an individual who wishes to exercise his/her right to be present at the polling place on Election Day.

**Optical Scan:** voting technology employing scanners where voters mark their choice by completing an arrow or filling in an oval. During tabulation, the optical scan voting system interprets the votes using "dark mark logic," whereby the computer selects the darkest mark within a given set as the correct choice or vote. The ballot can be immediately tabulated at the polling place allowing for voters to be notified by the voting system of voting errors such as over voting.

**Overseas Voter:**

Permanent: a United States citizen, 18 years or older, who resided in Wisconsin before leaving the United States (or is an adult child of U.S. citizens who resided in this state prior to

establishing residency abroad) and is now living outside the U.S. **with no present intent to return**, and not registered to vote in any other location. These electors may only vote for federal offices. They are required to register to vote, but do not have to provide proof of residence or photo ID.

Temporary: a United States citizen, 18 years of age or older, who is temporarily living outside of the U.S. with **an intent to return**. These electors may vote a full ballot. They are required to register to vote and must provide proof of residence and photo ID.

## **P**

**Paper Ballot**: a ballot on which the elector indicates their voting preference by marking an (X) in the box next to the candidate or referendum question of his/her choosing. Paper ballots are tabulated by hand.

**Partisan Primary**: the primary held on the 2<sup>nd</sup> Tuesday in August to nominate candidates to be voted for at the general election.

**Poll List** (also known as “Registration List”, “Voter List”, or “Poll Book”): a paper or electronic list containing the full name and address of each registered elector; a blank column for the entry of the serial number of the electors when they vote or the poll list number used by the municipal board of absentee ballot canvassers in canvassing absentee ballots; a space for the voter’s signature; an indication next to the name of each elector for whom proof of residence under Wis. Stat. § 6.34, is required; and a form of certificate bearing the certification of the administrator of the elections division of the board stating that the list is a true and complete registration list of the municipality or the ward or wards for which the list is prepared.

**Post-Election Voting Equipment Audit**: refers to the requirement set forth under Wis. Stat. § 7.08(6), that following each general election, the Wisconsin Election Commission audit the performance of each voting system in Wisconsin to determine the error rate of the system in counting valid ballots. Procedures for the audit are outlined in the “Voting Equipment” section of this manual.

**Presidential Preference**: an election held in conjunction with the Spring Election to express preferences for the person to be the presidential candidate for each party in a year in which the president and vice president are to be elected.

**Proof of Identification (POI)**: refers to documents that verify the identity of an elector voting an absentee ballot by mail or in-person in the municipal clerk’s office, or at the polling place on Election Day. For a complete list of acceptable forms of proof of identification and exceptions to the law, refer to Wis. Stat. § 5.02(6m) or the “Electors” section of this manual.

**Proof of Residence (POR)**: refers to documents that verify the current residency of voters. All voters must provide proof of residence to register to vote. Acceptable forms of proof of residence must contain a complete name, including first and last name; and a current and complete residential address, including a numbered street address, if any, and the name of a

municipality. Forms that have an expiration date must be valid on Election Day in order to constitute acceptable proof of residence at that election. For a complete list of acceptable forms of proof or residence, refer to the “Electors” section of this manual.

**Provider:** a municipality or county that provides election administration services in conjunction with the WisVote system for a relier municipality.

**Provisional Ballot:** a provisional ballot is a ballot that is marked by a voter but is not counted at the time it is cast. It is issued to a voter who is:

- 1) Unable or unwilling to provide their Wisconsin driver license or state-issued ID card number when registering to vote at the polls on Election Day
- 2) Unable or unwilling to provide acceptable Photo ID at the time of voting at the polls on Election Day.

There are no other situations when a provisional ballot is issued. The ballot is only counted on election night if the required documentation is provided to the election inspectors by 8:00 p.m. on election night. The voter has until 4:00 p.m. on the Friday following the election to provide the clerk with the required documentation for the ballot to be counted.

## Q

**Qualified Elector:** a qualified elector is defined in § 6.02, Wis. Stats., as a U.S. citizen, 18 years of age or older, who has resided in the election district for at least 28 days before any election at which he or she offers to vote (and who is not disqualified by virtue of one or more of the impediments described in Wis. Stat. § 6.03).

## R

**Referendum:** an election at which an advisory, validating or ratifying question is submitted to the electorate.

**Registration List:** see “Poll List.”

**Relier:** a municipality that enters into an agreement with another municipality or county to provide election administration services in conjunction with the WisVote system.

**s**

**Reporting Units:** a ward or combination of wards used to report election results. All wards in a reporting unit must consist of identical districts that pertain to the district seats up for election (i.e., in fall elections a reporting unit must consist of the same congressional, senate and assembly districts; in the spring, a reporting unit must consist of the same county supervisory and municipal districts).

## S

**Section 6.95:** See “Challenged Ballot.”



**Section 6.96:** notation used to indicate ballots that were cast after the close of the polls pursuant to a court order. If the election inspectors are informed that a court has issued an order extending the hours that the polling place is open beyond 8:00 p.m., a voter entering the polling place after that time will also have their ballot marked with the notation “Section 6.96.”

**Self-Provider:** a municipality that provides its own election administration services in conjunction with the WisVote system.

**Special Election, Special Primary, or Special Referendum:** An election held outside the four regularly scheduled elections. Regularly-scheduled elections are—Spring Primary held the 3<sup>rd</sup> Tuesday in February, Spring Election held the 1<sup>st</sup> Tuesday in April, Partisan Primary held the 2<sup>nd</sup> Tuesday in August and the General Election held of the Tuesday after the first Monday in November in even-numbered years.

**Special Voting Deputy:** an individual appointed by the municipal clerk or board of election commissioners to carry out absentee voting in certain residential care facilities and retirement homes. At least two special voting deputies must be appointed for each municipality in which one or more qualified residential care facilities or retirement homes are located. Special voting deputies must take the Oath of Special Voting Deputy (EL-155) before entering into their duties and must undergo at least one training program every two years. See the *Absentee Voting in Residential Care Facilities and Retirement Homes* manual for more information.

**Spring Election:** the election held on the first Tuesday in April to elect non-partisan judicial, educational, municipal, county officers and sewerage commissioners.

**Spring Primary:** the primary held on the 3<sup>rd</sup> Tuesday in February to nominate nonpartisan candidates to be voted for at the spring election.

**Supplemental Poll List:** the Supplemental Poll List is divided into two separate sections: the Pre-Printed Supplemental Poll List and the Handwritten Supplemental Poll List. Portions of the pre-printed poll list generated from WisVote contain names of all regular and confidential voters that registered during the late registration period until the poll list was printed in preparation of Election Day. The Handwritten Supplemental Poll list will contain the names of electors who registered in the municipal clerk’s office after the pre-printed supplemental poll list is printed and will also contain the names of voters who register on Election Day.

## T

**Tabulator:** a person selected and employed by the municipal clerk to help count votes cast by paper ballot after the close of the polls. The governing body of the municipality may authorize the use of tabulators not less than 30 days before the election. Tabulators are under the direction of election inspectors. Tabulators may also be used to assist counting votes in a recount.

**Temporary Overseas Elector:** Wisconsin residents who are temporarily living outside the United States for work, school or other reasons and have the intent to return to Wisconsin.

**Test Deck:** a pre-audited group of ballots marked to record a predetermined number of valid votes for each candidate and on each referendum. The test deck is used to ensure that electronic voting equipment is reliable and accurate.

## V

**Voter List:** see “Poll List.”

**Voter Registration:** the process by which an elector registers to vote. All electors, except for military absentee electors, are required to register to vote. Registration is accomplished by completing the Voter Registration Application (EL-131) at the clerk’s office, by mail, or at the polling place on Election Day.

**Voter Registration Application (EL-131):** the form prescribed by the Wisconsin Election Commission to register an individual to vote in Wisconsin.

**Voter-Verified Paper Audit Trail (VVPAT):** refers to the requirement under Wis. Stat. § 5.91(18), that all direct recording electronic (DRE) voting systems produce a complete, permanent paper record showing all votes cast by the elector. The voter-verified paper audit trail (VVPAT) is considered the official ballot and is to be used in a recount of each vote cast by the elector.

## W

**Wisconsin Elections Commission (WEC):** refers to the new agency formed on June 30, 2016, when the Government Accountability Board was split into the Wisconsin Elections Commission and Wisconsin Ethics Commission.

**WisVote:** a single, centralized, computerized statewide voter registration list managed by the Wisconsin Elections Commission. WisVote is used by state, county and municipal election officials to maintain a list of registered voters, manage and produce voter lists, process absentee and provisional ballots, and to manage a wide variety of other election-related activities.