

City of Milwaukee Election Commission

Report on Absentee Ballot Postmarks for the April 7, 2020 Spring Election / Presidential Primary

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|--------|--------|--------|-------|------|-----|-----|-----|
| 8-Apr | 6,228 | 6,029 | 6,029 | 100% | 0 | 0% | 199 |
| 9-Apr | 3,705 | 3,655 | 3,582 | 98% | 73 | 2% | 50 |
| 10-Apr | 698 | 636 | 285 | 45% | 351 | 55% | 62 |
| 11-Apr | 187 | 144 | 51 | 35% | 93 | 65% | 43 |
| 12-Apr | | | | | | | |
| | 10,818 | 10,464 | 9,947 | | 517 | | 354 |



Wisconsin Elections Commission

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DATE: April 11, 2020

TO: All Wisconsin Local Election Officials

FROM: Meagan Wolfe
Administrator

SUBJECT: Postmark Issues and Processing Absentee Ballots

I. April 10, 2020 Commission Action

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

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

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

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

Wisconsin Elections Commissioners

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

Administrator
Meagan Wolfe

The Commission also passed the following motion:

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

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

II. Previous Guidance and Additional Background

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

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

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

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

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

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

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

The same guidelines further state:

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

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

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

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

III. Processing Ballots in “Hold” Categories

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

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

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

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

April 7, 2020, Spring Election/Presidential Primary

Executive Director Report

April 13, 2020

Background

The April 7 Spring Election occurred six weeks after the February 18 Spring Primary. There were 67,386 voters in February. On the date of the February primary, there were no reported active COVID-19 cases in Wisconsin. On April 7, 2020, there were 2,578 cases in Wisconsin and 92 deaths. Milwaukee, as the epicenter of the COVID-19 outbreak in Wisconsin, has seen a disproportionate number of cases and deaths. The emergence of the COVID-19 pandemic greatly impacted the Election Commission's preparedness and ability to administer the April 7 Spring Election.

Primary areas of impact included:

- Rapidly declining numbers of election workers due to concern for health and safety
- Withdrawal of facilities as voting sites, particularly privately operated sites
- An immediate and unprecedented rush of absentee by-mail voting
- A depletion of the department's temporary office and warehouse staff
- A high volume of public contact, both by phone and email

Turnout

As of April 11, the city has had 18,803 Election Day in-person voters, and 76,352 absentee ballots processed for a total of 95,155 voters. While these numbers remain somewhat fluid until 4 P.M. on April 13, this number can be considered largely representative of the city's turnout.

Comparisons:

April 2016: 167,781

April 2012: 84,641

April 2008: 86,641

The April 2016 Spring Election was an anomaly as turnout was driven by an interest in the Presidential Primary by both primary political parties. I believe turnout in Milwaukee to be very strong considering the landscape of administering the election amidst a fear-inducing pandemic.

Absentee Voting Statistics

Wisconsin is not a by-mail absentee voting state. Neither the state's systems nor the City's were prepared for the volume of absentee ballot requests that were submitted on a daily basis. The City received over 6,000 requests in a single day and, early on, had a queue of over 11,000 requests waiting to be processed. Within days, the City established efficient systems for processing ballot applications, including allowing data entry staff to work from home. An additional delay occurred when the delivery of additional mailing envelopes was held by the printer. In the week leading to the election, requests were processed and mailed within 48 hours of receipt.

- Absentee ballots Issued: 96,712
- Absentee ballots returned: 77,729 (80% return rate)
- Absentee ballots counted: 76,352 (the variance is mostly rejected ballots due to insufficiency in certification issues)
- USPS Concerns
 - April 2016: 15,781 ballots were issued and 14,036 returned, a near 90% return rate.
 - In April 2020, we experienced an 80% return rate or a 10% reduction from the 2016 return rate. The 2016 return rate is representative of most other elections.
 - Milwaukee has requested a formal investigation into absentee ballots mailed around March 22 and 23. Of the 7,814 ballots mailed over these two days, less than 25% have been returned. Additionally, over 1,000 ballots were reissued to persons that contacted the Election Commission.
 - Voters were able to request an absentee ballot until the Friday preceding the election.
 - The delivery time for mailed absentee ballots ranged anywhere from three to ten days.
- Decisions made and reversed in the courts caused tremendous confusion for absentee voters, particularly those making late requests or that were unwilling or unable to secure witness signatures. Approximately one week prior the election, the deadline for absentee ballots was extended to April 13. A ruling the day before the election moved the date back to April 7, with the exception of absentee ballots postmarked by April 7 and received by April 13. The April 13 deadline was provided in written instructions to voters as well as in the media.

In-Person Absentee Voting or “Early Voting”

- In-Person Early Voting started March 16 at three locations: Midtown Center, Zeidler Municipal Building, and Zablocki Library.
 - 5,571 people voted during the first week, with 1,644 at Zeidler, 2,407 at Midtown and 1,520 at Zablocki.
- I made the difficult decision to terminate In-Person Early Voting effective March 20 after the resignation of site supervisors at Midtown and Zablocki, and overall health and safety concerns expressed by election workers.
- Drive-Up Early Voting began a week later on Saturday, March 28.
 - Due to staffing shortages (many workers that had participated during in-person voting declined returning) and other logistical challenges, the department was only able to operate one drive-up location. The Zeidler Building was selected for its central location.
 - 6,041 people participated in Drive-Up Early Voting.
- In total 11,612 early voters – compared to 7,949 in 2016 – voted in the Spring Election, an increase of 46% over 2016

Polling Place Voting

- Five voting centers were chosen for their location and their square footage
- The number of sites was determined based on the following factors:
 - Election worker staffing
 - Normally staffing for a Spring Election/Presidential Primary would be around 1,800, possibly as high as 2,000

- More than 50% of the City’s election workers are over the age of 60, and 1/3 are over the age of 70.
 - A focus of the department’s election worker team was to retain experienced staff but also to encourage those at high risk to stay home.
 - The election worker team also engaged in numerous recruitment efforts that targeted state, county and city employees, teachers, the political parties, and community groups and others. Numerous pleas were communicated through the media, including social media.
 - Throughout these efforts, the media reported on increased cases and deaths in the City. With each new pronouncement, more election workers dropped out.
 - At about one week prior to the election, the City had less than 250 confirmed election workers.
- Milwaukee Health Department Partnership
 - It was critical for the Election Commission to maintain a meaningful partnership with the MHD to ensure voting sites complied with – if not exceeded – public health guidelines. MHD committed an estimated 37 staff to support voting center operations and ensure the highest level of public health and safety possible in a community gathering setting.

Ultimately, the decision to operate five sites was largely based on:

- How many election workers I could be confident we could fully rely on. This number was critical to avoid compromises to the integrity of the election or health and safety of voters and workers.
- How many MHD staff I could have at each site to protect the health and safety of the election workers and the public.
- How many sites were available that offered expansive square footage to allow for social distancing

Ultimately, the severe and unresolvable shortage in election workers led to the selection of five sites. The number of sites did not change when I learned of available support from the National Guard (NG) for the following reasons:

- A previous request to the WEC regarding the participation of the NG in the election had indicated they would not be available.
- I learned of the availability of the National Guard the weekend before the election.
- I learned the actual count of how many NG members we would be receiving the day before the election.
- Election worker staffing was still very unstable. On Election Day, NG members were used to supplant election worker “no-shows” at the voting centers. At this time, I do know that overall no-show rates, but understand that nearly 50% of confirmed election workers at Riverside High School did not appear on Election Day.