

ELECTION DAY

Summary

Before Election Day, the municipal clerk has made a number of preparations to ensure a smooth Election Day. The clerk should have already made preparations for delivery of ballots and supplies, posting of required notices, voting equipment testing and set-up, training of election inspectors, and a contingency plan for unforeseen incidents. On Election Day, the 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. The municipal clerk is an election administrator and, as such, has duties outside the polling place. However, he or she should be available to the election inspectors on Election Day for advice, supplies, etc. In addition, there are circumstances where a hospitalized elector or sequestered juror may request an absentee ballot from the clerk on Election Day. If the clerk is not available on Election Day, a deputy should be appointed to act in the clerk's absence.

The municipal clerk has the duty to systematically inspect and supervise elections. The clerk is responsible on Election Day for monitoring turn out, supplying ballots, dealing with news media, and handling disruptions.

Note: When running for re-election, clerks should not be stationed at the polling place, as his or her presence casts doubt on the integrity of the election. It is the formal opinion of the State Elections Board that an incumbent municipal clerk should carry out his or her duties without being stationed at the polling place, or without spending extended periods of time at the polling place. EIBd 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. §7.52, Wis. Stats. The municipality is required to submit notification, in writing, to the State Elections Board on how the

municipality intends to process absentee ballots at a central location and the municipality is required to consult with the State Elections Board staff. The municipal board of absentee ballot canvassers shall publicly canvass all absentee ballots at all elections held in the municipality after passage of an ordinance directing alternate central count of absentee ballots.

Municipal Board of Absentee Ballot Canvassers

1. The municipal board of absentee ballot canvassers is composed of the municipal clerk, and two (2) 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 clerk is a candidate at an election being canvassed, the clerk may perform his or her 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.

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.

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.

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. Absentee procedures may be found in the “Handling Absentee Electors” section of the Election Day Manual.

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 method may be directed to the State Elections Board staff. Sample procedures are available on the agency website.

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.
2. All challenges must be made for reasonable cause as outlined on the Challenge Documentation of the Inspectors' Statement (EB-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 (EB-104c) of the Inspectors' Statement (EB-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 (EB-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 his or her challenge. If the challenge is withdrawn, a ballot is issued with no special marks, a notation is made in the Inspectors' Statement (EB-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 (EB-104) are completed by the election inspector.

Electioneering

Electioneering is any activity intended to influence voting at an election.

Electioneering is prohibited on public property within 100 feet of any entrance to a polling place, established alternate absentee voting location, or a special voting location including nursing homes, qualified retirement homes, or community-based residential facilities while special voting deputies are present.

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.

State law prohibits the distribution of election-related material at the polling place on Election Day. §12.035(1), Wis. Stats. 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.

Petitions on Election Day

It is the formal opinion of the State Elections Board 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. However, petitioning inside the building containing the polling place on Election Day is considered disruptive, and is prohibited under §§5.35(5) and 12.13(3)(x), Wis. Stats. Election officials will order persons petitioning inside the building containing the polling place to leave the building, and summon law enforcement if necessary. ElBd Opinion 07-01.

Frequently Asked Questions

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

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

2. When is a challenge appropriate?

Reasons for a challenge may include age, residency, citizenship 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.

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 videotape the activities taking place in the polling place?*

No, filming the voting process is disruptive to the orderly conduct of the election and may intimidate voters. An exception can be made for members of the media seeking stock film footage of the voting process with the consent of all electors and election inspectors present.

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

It is best to permit the voter to cast his or her 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 he or she is wearing.

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.

List of Related Forms and Publications

All forms and publications are available on the agency website or can be ordered from the State Elections Board.

Forms

EB-104: Inspectors' Statement

EB-104c: Challenge Documentation

Other Publications

ElBd Opinion 81-3

ElBd Opinion 07-01