

An absentee ballot application should not be denied where it can be reasonably determined from the written information provided that an elector is qualified to vote absentee even though the elector has failed to specifically indicate in the written application the statutory basis on which the elector is entitled to vote absentee. (Issued to Mr. Gail Procarione, May 25, 1988).

You have requested the Elections Board to issue a formal opinion concerning the qualifications of absentee voters. Specifically you have asked the following question:

"Is any reason, even the word "personal", a good enough reason to request an absentee ballot, or does a person have to state that he will be absent from the municipality because of service in the Armed Forces or other reason, or who because of age, sickness, handicap, physical disability, jury duty, service as an election official or a religious reason cannot appear at the polling place in his or her ward?"

The legislature has asserted that absentee voting is a privilege. s.6.84(1), Stats. Wisconsin law permits any qualified elector of this state, who registers where required, to vote by absentee ballot. s.6.20, Stats. An absent elector is defined by law. s.6.85, Stats. Any elector may qualify as an absent elector if the elector meets one of the three following categories:

1. The elector is or expects to be absent from the municipality on election day by reason of active service in the U.S. Armed Forces, or for any other reason;
2. The elector cannot appear at the polling place in his or her ward because of age (at least 70 years old), sickness, handicap, physical disability, jury duty, service as an election official or for religious reasons;
3. The elector changes residence within the state by moving to a different ward or municipality less than 10 days before the election.

Any elector who qualifies under the provisions of ss.6.20, 6.85, Stats., as an absent elector may make written application to the municipal clerk for an official ballot. s.6.86(1)(a), Stats. The request must be in writing. The application must indicate the person qualifies as an absent elector under one of the three categories. The clerk may not issue an absentee ballot without a written application. s.6.86(1)(ar), Stats.

The Elections Board has developed an absentee ballot application form which the Board recommends municipal clerks use, Form EB-121. This form should be used for persons coming to the clerk's office to vote absentee. However, many absentee ballot requests are not made on the official form. These requests usually arrive in the form of a letter to the municipal clerk.

A municipal clerk may be able to determine the basis on which an elector is entitled to vote absentee from the content of the written request. If the municipal clerk can reasonably determine from information provided in the written request that the person meets the definition of an absent elector, then an absentee ballot should be issued to the voter. If the written request does not indicate the basis on which an elector is qualified to receive an absentee ballot, the clerk should send an application form to the voter to be completed before an absentee ballot may be issued.

A voter should not be subject to extensive interrogation in order to demonstrate that the person qualifies to receive an absentee ballot. If the voter indicates or the clerk can reasonably determine the voter is covered by one of the three categories described in the statute, the person is entitled to an absentee ballot. In the event that a voter does not appear to be qualified to receive an absentee ballot, he or she should be given the opportunity to amend the application before being denied an absentee ballot.

In the situation you presented the word "personal" would not be a sufficient reason. In that case you should explain the three categories of absentee electors. If the voter lists on the application form that he or she is included in one of the three categories, then you should issue an absentee ballot.

Wisconsin law prohibits any person from making a false statement for the purpose of obtaining an absentee ballot. s.12.13(3)(i), Stats. The clerk should refer to the district attorney any situations involving attempts to obtain an absentee ballot through false statements.

The Elections Board believes that municipal clerks must make a concerted effort to facilitate the participation of qualified electors in the election process. Because absentee voting takes place outside the protection of the polling place, municipal clerks are required to assure that each step of the absentee voting process is adhered to from the time of application through the counting of the ballots. ss.6.84 through 6.89, Stats. Every effort should be made by the clerk to provide absentee ballots to persons meeting the qualifications to vote absentee and to assist voters in complying with the law.