

ELECTION LAW WAR GAME

December 7, 2012

**Civil Law Seminar
Neenah, WI**

WI SPOILED BALLOT STATUTES

Requesting a New Ballot

(5) Whenever an elector returns a spoiled or damaged absentee ballot to the municipal clerk, or an elector's agent under sub. (3) returns a spoiled or damaged ballot to the clerk on behalf of an elector, and the clerk believes that the ballot was issued to or on behalf of the elector who is returning it, the clerk shall issue a new ballot to the elector or elector's agent, and shall destroy the spoiled or damaged ballot. Any request for a replacement ballot under this subsection must be made within the applicable time limits under subs. (1) and (3)(c).

(6) Except as authorized in sub. (5) and s. 6.87(9), if an elector mails or personally delivers an absentee ballot to the municipal clerk, the municipal clerk shall not return the ballot to the elector. An elector who mails or personally delivers an absentee ballot to the municipal clerk at an election is not permitted to vote in person at the same election on election day.

Wis. Stat. Ann. § 6.86 (West)

Requesting a New Ballot – GAB Manual

If the applicable absentee request deadline has not yet passed for the voter and the clerk believes the person requesting the replacement ballot is the person to whom the original ballot was provided, the voter has the option to spoil their ballot (for any reason) and vote a new ballot. The voter can have a 2nd ballot sent to them by mail, they can come to the clerk's office and vote in-person absentee, or they can vote on Election Day at the polling place. If a 2nd absentee ballot is issued, the certificate envelope should be marked "2nd ballot".

a. If the clerk does NOT believe the person requesting the replacement ballot is the person to whom the original ballot was provided, the clerk shall issue a replacement ballot, document the incident for a subsequent challenge on Election Day, and contact law enforcement immediately.

b. A clerk should “spoil” the returned original ballot by partially tearing the certificate envelope and ballot so that is unusable as a ballot, but not entirely destroyed and placing it in a Spoiled Ballots envelope.

c. A voter who wishes to spoil a ballot in their possession should similarly destroy the envelope/ballot.

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

Requesting a new ballot when the voter has improperly filled out the certificate

(9) If a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot within the period authorized under sub. (6).

Wis. Stat. Ann. § 6.87 (West)

Time limits for requesting ballots

Except as provided in this section, if application is made by mail, the application shall be received no later than 5 p.m. on the 5th day immediately preceding the election. If application is made in person, the application shall be made no earlier than the opening of business on the 3rd Monday preceding the election and no later than 5 p.m. or the close of business, whichever is later, on the Friday preceding the election. Except as provided in par. (c), if the elector is making written application for an absentee ballot at the partisan primary, the general election, the presidential preference primary, or a special election for national office, and the application indicates that the elector is a military elector, as defined in s. 6.34(1), the application shall be received by the municipal clerk no later than 5 p.m. on election day. If the application indicates that the reason for requesting an absentee ballot is that the elector is a sequestered juror, the application shall be received no later than 5 p.m. on election day. If the application is received after 5 p.m. on the Friday immediately preceding the election, the municipal clerk or the clerk's agent shall immediately take the ballot to the court in which the elector is serving as a juror and deposit it with the judge. The judge shall recess court, as soon as convenient, and give the elector the ballot. The judge shall then witness the voting procedure as provided in s. 6.87 and shall deliver the ballot to the clerk or agent of the clerk who shall deliver it to the polling place or, in municipalities where absentee ballots are canvassed under s. 7.52, to the municipal clerk as required in s. 6.88. If application is made under sub. (2) or (2m), the application may be received no later than 5 p.m. on the Friday immediately preceding the election.

Wis. Stat. Ann. § 6.86 (West)