

Referendum Reporting Deadlines Extended for School Districts in Response to the Impact of COVID- 19 on the Spring Election

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Practice Area: School Law & County and Municipal Governance

The State of Wisconsin has seen much activity the last few days relative to the April 7, 2020 spring election, and now referendum reporting requirements for school districts have been extended. The spring election ultimately was held on April 7 as scheduled, however, the United States District Court for the Western District of Wisconsin extended the period for municipal clerks to receive absentee ballots from election day to April 13, with the United States Supreme Court holding that absentee ballots hand-delivered or postmarked by April 7 could be received by municipal clerks through April 13.

This extension of the deadline for municipal clerks to receive absentee ballots in turn impacts the ability of a school district to report preliminary results to the Department of Public Instruction ("DPI"), convene the district's board of canvassers, and certify the referendum results to DPI by the typical deadlines.

In response to the extension to April 13 to receive the unprecedented number of absentee ballots, DPI issued updated guidance to extend the deadlines for school districts to report referendum results to DPI.

Normally, DPI requests that school districts report preliminary referendum results to DPI the day after an election. Per the most recent guidance, DPI has advised that districts may instead report the unofficial referendum results as soon as that information is available after April 13, 2020. This information should be emailed to Roger Kordus at Roger.Kordus@dpi.wi.gov.

DPI has also modified the deadline for school districts to submit their referendum reports through the DPI School Finance Reporting Portal ("SAFR"). In a normal election, state law requires school districts to certify the results of the referendum to DPI within ten days after the referendum is held, which would be April 17, 2020. However, due to the extraordinary circumstances surrounding the April 7 election, DPI will instead count the ten day period to submit referendum results starting April 13, 2020, instead of April 7, giving school districts until April 23, 2020 to submit their referendum reports to DPI via the SAFR. While additional time has been given to complete the required reporting, DPI encourages districts to complete their reports as soon as possible.

School districts should note that the requirements of Wis. Stat. § 7.53(3)(a) regarding the school district's board of canvassers are still in place. Districts must convene their board of canvassers no later than 9:00 a.m. on April 14, 2020, and the canvass must continue, without adjournment, until it is completed, which must be prior to 4:00 p.m. on April 14, 2020. In light of the April 13 deadline for absentee ballots, the April 14 canvass is likely an impossible task. We anticipate the Wisconsin Elections Commission providing further guidance for municipalities and school districts as to their statutory obligations.

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