

## **Absentee Ballot Return Assistance Guidance (rev 8-2023)**

***A federal court affirmed the right of voters with disabilities to use ballot return assistance in August 2022.***

### **Background**

Disability Rights Wisconsin has continued to receive questions from disabled voters who need assistance mailing or delivering their absentee ballots. These practices were restricted in the April and August 2022 elections because of litigation.

An August 31, 2022 court order clarified that federal law<sup>1</sup> protects the right of all disabled Wisconsin voters to receive assistance from a person of their choice to mail or deliver their absentee ballots.

Any Wisconsin voter who requires assistance with mailing or delivering their absentee ballot to the municipal clerk, or with any other part of the voting process, because of a disability must be permitted to receive such assistance. Voters are entitled to receive assistance from a person of the voter's choice, **other than the voter's employer or agent of that employer or officer or agent of the voter's union.**

### **Guidance for Voters with a Disability**

If you need assistance mailing or returning your absentee ballot because of a disability, you may have a person of your choice mail your ballot, other than your employer agent of that employer, or officer or agent of your union.

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<sup>1</sup> Judge Peterson's order referenced the Voting Rights Act, 52 U.S.C. § 10508:

"Under the Voting Rights Act, 52 U.S.C. § 10508, voters who require assistance with mailing or delivering their absentee ballot to the municipal clerk because of a disability are entitled to assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. To the extent that Wis. Stat. § 6.87(4)(b)1 prohibits such assistance, it is preempted by § 10508."

- The Americans with Disabilities Act and Other Federal Laws Protecting The Rights of Voters with Disabilities: [www.justice.gov/file/69411/download](http://www.justice.gov/file/69411/download)

The person returning your ballot may also be the person who assists you with completing your ballot and/or who acts as your witness.

- It is up to you, the voter, to determine if you need assistance mailing or delivering your ballot because of disability.
- Election officials cannot inquire about your disability status beyond the questions described below. No additional steps may be taken to verify your disability or right to assistance.
- Clerks may not create additional requirements or require documentation from voters with disabilities who need ballot return assistance.
- You may check with your Municipal Clerk to determine where your assistor should deliver your ballot.  
Find contact information for your Clerk on My Vote Wisconsin: [myvote.wi.gov/en-us/My-Municipal-Clerk](https://myvote.wi.gov/en-us/My-Municipal-Clerk)
- As always, carefully follow the instructions for completing your absentee ballot and the certificate envelope. Make sure that the envelope includes your witness' name, signature, and address, including street number, street name, municipality, state, and zip code.
- We encourage voters to complete and mail their ballot as soon as possible to allow time for mail delivery.

### **Guidance for People Assisting a Voter with a Disability with Mailing or Delivering a Ballot**

The Wisconsin Elections Commission has instructed clerks that the person delivering the ballot for a voter with a disability may be asked the questions listed below. We recommend disabled voters explain this to the person assisting them, so they know they may be asked these questions.

From Wisconsin Elections Commission Guidance:

- When a clerk is presented with an absentee ballot delivered in-person to the clerk's office, the Commission believes that the clerk may ask the following questions:
  - *Are you the voter? If not, then:*

- *Are you delivering the voter's ballot because the voter has determined that they require assistance returning their ballot due to their disability? If yes, then:*
- *Are you someone other than the voter's employer, an agent of that employer, or an officer or agent of the voter's union? If yes, then the ballot can be accepted.*
- Clerks may not create additional requirements or require documentation from an individual returning the ballot for a voter with a disability.
- An individual may provide assistance to more than one disabled absentee voter, if requested by the voters.

### **Link to Wisconsin Elections Commission Guidance on Absentee Ballot Return Options Under the Federal Voting Rights Act:**

- Guidance on Absentee Ballot Return Options Under the Federal Voting Rights Act, Wisconsin Elections Commission:  
[elections.wi.gov/memo/guidance-absentee-ballot-return-options-under-federal-voting-rights-act](https://elections.wi.gov/memo/guidance-absentee-ballot-return-options-under-federal-voting-rights-act)

### **Questions?**

For questions about this process, or if you experience any barriers, please contact the Disability Rights Wisconsin Voter Hotline.

**DRW Voter Hotline:** 844-347-8683 or email [info@disabilityvote.org](mailto:info@disabilityvote.org)  
**Wisconsin Elections Commission:** 866-868-3947 toll free

### **Hospitalized Voters and Ballot Return Assistance**

A different process is available for hospitalized voters who need assistance with return of their ballot. Information is available on the Wisconsin Election Commission website:

[elections.wi.gov/resources/brochures/hospitalized-electors](https://elections.wi.gov/resources/brochures/hospitalized-electors)