

Date: September 6, 2023

Re: DRW comments for September 7, 2023 Wisconsin Elections Commission Meeting

To: Members of the Wisconsin Elections Commission and Staff

From: Barbara Beckert, Disability Rights Wisconsin - [barbarab@drwi.org](mailto:barbarab@drwi.org)

Thank you for the opportunity to provide comments on behalf of Disability Rights Wisconsin (DRW) and the Wisconsin Disability Vote Coalition.

Disability Rights Wisconsin (DRW) is the federally mandated Protection and Advocacy system for the State of Wisconsin. DRW is charged with protecting the voting rights of people with disabilities and mandated to help ensure full participation in the electoral process for individuals with disabilities (Help America Vote Act, 42 U.S.C. § 15461 (2002)). DRW staffs a Voter Hotline and provides training and support to assist voters with disabilities and older adults, family members, service providers, and others.

### Comments on Draft Election Observer Rule

Thank you for the opportunity to represent Disability Right Wisconsin on the Commission's Advisory Committee on Election Observers. We request your consideration of our comments regarding one of the areas of disagreement among member of the Commission's Advisory Committee on Election Observers. Our comments will address **4.05(4)(e): Should the two SVD observers be permitted to enter a voter's private residence if voting occurs in that location?** (page 60 / 67 PDF)

In the meeting packet, staff note that some Advisory Committee members disagreed with changing the Commission's current guidance on this issue.

DRW and our partners strongly support changing the current guidance on this issue. We endorse the following proposed language included in the Draft Election Observer Rule: (p. 73 / 80 PDF)

*e. If voting occurs outside of the common areas of a facility served by special voting deputies, observers shall not be permitted to enter a voter's private room, however, the observers shall be permitted to observe such voting from a common area in accordance with sub. (4)(d).*

The proposed language would protect the rights of care facility residents. Observers should not be allowed to enter a resident's private room but should observe the "check in process" voting from a common area such as a hallway; observers should not view the actual ballot completion process which is private.

**This is an important residents' rights and privacy concern.** While the common areas are considered a polling place, a resident room specifically is not a polling place. No election observer needs to nor should have access to the private residence of a voter, especially to a bedroom.

We ask Commissioners to support the united position of aging and disability groups and endorse the proposed rule language which provides observers with access from a common area, while maintaining the rights and privacy of residents, and prohibiting entry into the resident's private room.

In addition to Disability Rights Wisconsin, our recommendations regarding the use of observers in care facilities are endorsed by the following:

- AARP
- CIL Western Wisconsin
- Greater Wisconsin Agency on Aging Resources, Inc.
- Independence First
- Wisconsin Board for People with Developmental Disabilities
- Wisconsin Coalition of Independent Living Centers
- Wisconsin Disability Vote Coalition

It is essential that the rules for those observing absentee voting in residential care facilities and retirement homes protect the voting rights of residents including their rights to privacy. The act of voting and of marking a ballot should be private even though the voting process is public and can be observable.

### **Mandatory Use of Uniform Instructions for Absentee Voting**

As stated in our August 30th public comments, DRW asks Commissioners to authorize moving forward with promulgating an Administrative Rule Amendment to require Mandatory Use of Uniform Instructions for Absentee Voting. This would ensure that all absentee voters receive consistent information regarding the process of completing and returning absentee ballots and would eliminate the possibility of different voters receiving conflicting information.

In our role assisting voters with disabilities, we find that voters in different municipalities experience inconsistencies in instructions for absentee voting. For example, in recent elections, DRW heard from some voters who received incorrect instructions regarding ballot return assistance for disabled voters. In some cases, the instructions violated federal law and restricted the right for voters with disabilities to have ballot return assistance from a third party, resulting in some individuals being disenfranchised.

Requiring Mandatory Use of Uniform Instructions for Absentee Voting could help to address these serious violations of voting rights and ensure all absentee voters have access to consistent and correct instructions.

### **Updated Uniform Instructions for Wisconsin Absentee Voters**

DRW has advocated for some time that the Uniform Instructions be updated to provide clear and uniform directions regarding the federal rights of voters with disabilities to have assistance from a third party returning their ballot. We support the revised language regarding Ballot Return on page 195 / 206 PDF in your packet and ask Commissioners to approve these changes so disabled voters and all voters will have correct information about ballot return assistance for the 2024 elections.

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In closing, I want to thank Commissioners for your consideration of our comments and your work to advance accessibility. This will be my last time speaking on behalf of Disability Rights Wisconsin as I am retiring at the end of the month. It's been an honor to advocate for the rights of voters with disabilities at this very challenging time in our state. I want to thank Administrator Wolfe and her staff for their dedicated work to advance accessibility. Under Administrator Wolfe's leadership, the Wisconsin Elections Commission has demonstrated a strong commitment to ensuring Wisconsin elections are accessible and inclusive of voters with disabilities, as required by [federal](#) and [state](#) laws. It is essential that this commitment continue moving forward and is especially urgent given that 2024 will be a very busy and challenging time for election administration.

Accessibility matters to Wisconsin voters. The [CDC](#) estimates that 23% or about 1 in 4 adults in Wisconsin have a disability: 1,055,434 adults. Lack of accessibility can be a significant barrier to casting a ballot. Thank you for your service and please continue your essential work to ensure Wisconsin elections are fair, secure, accessible, and uphold the rights of voters with disabilities.