

March 27, 2020

To: The Wisconsin Election Commission

We the ACLU of Wisconsin, All Voting is Local, Common Cause in Wisconsin, Disability Rights Wisconsin, The Wisconsin Council of the Blind & Visually Impaired, the Wisconsin Democracy Campaign, Wisconsin Voices, write to demand that all jurisdictions that have cancelled early in person voting promptly restore in-person absentee voting as required by section 6.86(1)(a)(2) of the Wisconsin Statutes.

On March 24, 2020, the Wisconsin Election Commission sent guidance to all municipal clerks and the City of Milwaukee and Milwaukee County election commissions clarifying that the Governor's emergency orders relating to the covid-19 pandemic do *not* authorize municipal election officials to suspend early in-person absentee voting. <https://elections.wi.gov/node/6773>. The Commission wrote "the Order does not require **or authorize** municipalities to terminate in-person absentee voting." The guidance further states: "[T]here is no election-related statute that authorizes municipalities to decline the opportunity for electors to vote an absentee ballot or register to vote in person."

Nonetheless, the City of Milwaukee Election Commission website, as of 12 pm today, contains the following statement:

Effective immediately, the City of Milwaukee will no longer be operating in-person absentee or "early" voting at the city's three locations: Zablocki Library, the Zeidler Municipal Building or the Midtown Center. Due to increased COVID-19 exposure risk, the Election Commission can no longer maintain sufficient staffing levels to operate these sites in a manner that would ensure a safe or efficient public voting experience.

It is our understanding that other municipalities have also cancelled early voting, although we do not know in which of the state's 1,800 municipalities this has occurred. We have heard that Bayside, Brown Deer, Fox Point, Glendale, Oak Creek, River Hills, Shorewood, and Whitefish Bay have suspended in person absentee voting, and suspect that many more municipalities around the state have also done so. <https://www.wpr.org/election-officials-across-wisconsin-eliminate-scale-back-person-early-voting>

While we are sympathetic to concerns for health and safety, elimination of in-person absentee voting is not a legally permissible way to protect health and safety. As the WEC guidance states, "Conducting [in person absentee voting] is considered an essential government function and traveling for that purpose by both election officials and voters is permitted." While the City may modify procedures to reduce risk of exposure during in-person absentee voting, as other essential services like grocery stores have, it must make available this essential means of participating in our democratic process.