

Primary Primers: Wisconsin shows how the Covid-19 pandemic has made holding elections much more difficult.



Wisconsin is set to hold its presidential primary on April 7th, the first to do so following directives for its citizens to stay at home during the Covid-19 outbreak. Ahead of the primary, [Wendy Scattergood](#) writes on the electoral challenges that now face the state, from the impending shortage of poll workers and ballots, court challenges over a purge of a registered voters list, to difficulties in obtaining identification for absentee voting.

- This article is part of our [Primary Primers](#) series curated by Rob Ledger (Frankfurt Goethe University) and Peter Finn (Kingston University). Ahead of the 2020 election, this series explores key themes, ideas, concepts, procedures and events that shape, affect and define the US presidential primary process. If you are interested in contributing to the series contact Rob Ledger (ledger@em.uni-frankfurt.de) or Peter Finn (p.finn@kingston.ac.uk).

If this were a normal primary season, I would be poring over the delegate numbers already decided and the polls for those yet to come, and analyzing Wisconsin's role in the primaries and importance in the general election. If this were a normal primary season, because Wisconsin's primary was scheduled in between the primary election dates of states with far more delegates, we would probably be seeing visits from Biden, Sanders, and Trump.

Instead, the importance of Wisconsin's April 7th election is that it is the first election to occur amid the "Safer at Home" directives while [more than a dozen other states](#) have postponed their primaries. Plans, arguments, and even several lawsuits are changing the election plans and processes nearly as fast as Covid-19 is spreading across Wisconsin. Eyes are on Wisconsin to see what lessons can be learned from a state that allows mail-in absentee voting, but does not typically see many votes cast in this way. Wisconsin is a high turn-out, high in-person voting state. With a week to go until the election, how will the Badger State cope?

A Diversity of Voting Options and Legal Battles

Wisconsin voting laws allow for online voter registration, online absentee vote request (then mail-in voting), in-person absentee voting (generally at municipal clerks' offices), same-day polling place registration, and of course, Election Day in-person voting. The online voter registration deadline was March 18th, but due to a lawsuit, a federal District Court ordered that it [remain open until March 30th](#). This will allow more voters to register to vote, then request an absentee ballot. However, a number of other issues brought up in the lawsuit (postponement of the [mail-in](#) voter registration deadline, postponement of absentee ballot deadline, and suspension of proof-of-residency and voter identification requirements for electronic and mail-in registration and absentee voting applications) [were rejected by the judge](#).

Even before the virus hit the US, Wisconsin was already in a legal battle about a [voter purge](#) from the list of registered voters. Those (over 239,000) who did not send back a confirmation of their address were considered to have moved and were ordered to be removed from the voter rolls. However, the Elections Commission said they would not pursue this until 2021. For this delay, they were sued by a Milwaukee-based interest group. The county judge found in favor of the interest group, even holding the Commission in contempt, but this ruling was overturned in the District Court. The case is now before the Wisconsin State Supreme Court. There was some speculation they would rule before the April election, but now appears that they may rule this summer which would have an effect on the November general election.



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In another case, the City of Green Bay lost their [lawsuit](#) in federal District Court. The city argued for allowing voter registration until May 1st, for mailing out ballots to all registered voters, and for delaying the vote count until June 2nd. The judge argued that the City, the Mayor and the Clerk did not have standing to sue. [The League of Women Voters of Wisconsin](#) and others have sued the state to try to negate the requirement that absentee voters must get a witness' signature to certify their ballots. They argued that the requirement violates the constitutional rights of those who are quarantined and cannot get someone to sign the certificates. [Other groups](#) are purportedly also considering bringing lawsuits to argue in favor of postponing the election. [Three of the cases](#) are being heard in federal court this week, the week before the election. During the hearing, the judge was critical of both the Governor and the state legislature, but expressed doubts about whether he could legally postpone the election. His ruling is expected later this week.

Potential Barriers to Absentee Voting

There are a number of other issues related to voters' ability to vote absentee. One is that some satellite [DMVs \(Department of Motor Vehicles offices\)](#) have closed and others are limiting hours and access, which may make it difficult for people to renew driver's licenses. In Wisconsin, one of the primary forms of identification necessary to vote is an unexpired driver's license. Another issue is that when registering to vote and/or when asking for an absentee ballot online for the first time, voters must submit a picture of their identification. Some groups argue that not everyone has access to the technology that would allow them to do this. Third, some [municipal clerks' offices](#) are still allowing in-person absentee voting, but have curtailed hours and/or access, while others, notably some areas in [Milwaukee and Madison](#) have completely restricted public access.

To address some of these identification issues, some clerks were allegedly telling prospective voters who are observing the "Safer at Home" directive that they could claim to be ["indefinitely confined"](#), which is meant for those in nursing homes etc. In such a case, the voter does not need to show identification to get an absentee ballot. However, the Legislative Reference Bureau produced a memo saying this was likely an inappropriate interpretation of the law for those staying at home due to the "Safer at Home" directive., though that appears to at least be on hold for the moment and While the [Wisconsin Elections Commission](#) will not investigate, some Republican lawmakers sued one of the clerks. In an expedited review, the [Wisconsin Supreme Court](#) ordered the clerk to ensure that future communications reflected the LRB's interpretation.

Then there is the impending massive [shortage of poll workers](#). Many of the volunteer poll workers are over 60, and many are taking appropriate precautions to protect themselves and others by staying home this election. The state relies on these dedicated folks for the in-person voting to happen. It has been reported that nearly [60 percent of polling places](#) are short of poll workers and 100 communities have none. The Wisconsin Elections Commission has allowed for consolidating polling places. For Milwaukee, Mayor Tom Barrett has said this means consolidating 180 polling places to between 10 and 12.

The [safety of polling places](#) is also of great concern. No masks or other protective gear will be given to poll workers. Because of a shortage of hand sanitizer, the state has asked local distilleries to make alcohol-based sanitizer and will distribute 2 liters and 1.5 million pens are to be distributed to polling sites. Poll workers will be trained about distancing and cleaning procedures, but the [training video](#) clearly shows a lack of protective gear and scant cleaning of areas touched by voters.

Partisan Wrangling

[Governor Tony Evers](#), a Democrat, addressed the Republican-led state legislature on Friday, March 27th, asking that the election occur on time, but that it proceed as an all mail-in election, with ballots being sent to all registered voters. There was an immediate outcry by [local government associations](#) as well as the legislature that this was logistically impossible. They claimed that there were not enough ballots, not enough envelopes, and not enough staff in clerks' offices to be able to deal with them in a legally timely manner (all votes, in-person and absentee, need to be counted the day of the election and cannot be counted earlier or later). Along these lines, I spoke with my local village clerk about this. They have two teams set up for Election Day. They can't even open the envelopes prior to 7am the day of the election. The teams then have 13 hours to open the ballots, feed them into the optical scanners, deal with any problems with individual ballots and determine intent of the voter in such cases, then combine them with in-person votes and submit them to the Elections Commission by 8pm. Just in the short time we talked, he had gotten 4 more requests for absentee ballots and had three more poll workers dropped out (in addition to the 9 who dropped out last week).

[Both Democrats and Republicans](#) have made claims that the ideas offered by the other party are attempts at political gain and a hindrance to democracy. In addition to logistics, Republicans decried the Governor's mail-in voting request as one that would be rife with voter fraud, while Democrats accuse Republicans of trying to hinder turnout by refusing to delay or change election rules.

For most Wisconsinites, the last day (as of this writing) to request an [absentee ballot is April 2nd](#), the ballot envelope must be signed by a witness, and the ballot must be received in the local clerk's office by [8pm the day of the election, April 7th](#). As of Thursday morning, April 2nd, the [Wisconsin Elections Commission](#) reports that over 1 million absentee ballots have been requested. To put this in context, in the 2016 presidential primary, about [2.1 million votes](#) were cast in Wisconsin, about 12 percent of which were absentee ballots.

Will Wisconsin be an exemplar or a warning?

The question is, how will turnout be affected and what are the implications of this election in a broader sense? On the one hand, there have been elections in [US history](#) with significant impediments to voting; the Spanish Flu, wars, and more recent extreme weather events. Also, the United States has a long history of known voter suppression of racial, ethnic, and other groups. Yet, elections have continued nonetheless and the outcomes accepted. On the other hand, history is not an excuse. States have the obligation to balance issues of voter enfranchisement, with protecting the integrity of the elections, and ensuring the health and safety of the poll workers and local government officials. Election legitimacy both in terms of process and turnout are essential for a well-functioning democracy.

While Wisconsin might not be a pivotal state in the battle for the Democratic presidential nomination, the election on April 7th also includes elections for a seat on the Wisconsin Supreme Court and a number of the lower courts, as well as non-partisan local councils and boards, and a total of about [\\$1.6 billion](#) in school funding referendums. These elections are vital to local and state governments and the public.

There remains a lot of uncertainty about how this will go on Election Day. Will the Badger State be an exemplar or a warning? Regardless, the nation will still be watching Wisconsin.

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Note: This article gives the views of the author, and not the position of USAPP– American Politics and Policy, nor of the London School of Economics.

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