

State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND
Chair

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MEMORANDUM

DATE: July 28, 2014

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
Milwaukee County Election Commission
City of Milwaukee Election Commission

FROM: Michael Haas
Elections Division Administrator

SUBJECT: Election Observer Rules

As you may be aware, there have been significant recent developments regarding the Government Accountability Board's rules governing the conduct of observers, and some changes to the rules will be in place for the August 12, 2014 Partisan Primary. At its meeting of July 21, 2014, the Board accepted and approved several changes to the proposed permanent administrative rules which were requested by the Legislature, as well as changes necessitated by recent legislation. The rules are marked as a draft because the Legislature will still need to consider the rules approved by the Board and may approve or reject the rules, or request additional revisions, but no legislative action on the rules will occur prior to the Partisan Primary. The revised rules are not a part of the administrative code until completion of the Legislature's review process.

As in recent elections, the Board is advising local election officials and observers that the rules as approved by the Board represent the Board's interpretation of the applicable Statutes. The Board will be communicating to observer groups that the recent revisions will be enforced at polling places and other voting and ballot counting locations for the Partisan Primary.

The full text of the revised rules is attached. The observer rules are largely the same as those which have been in effect since 2008. Following is a summary of the changes which were required by legislative changes or subsequently requested by the Legislature and approved by the Board:

- 1) Section 4.01(1)(f) includes a definition regarding election inspectors other than the chief inspector.
- 2) Section 4.02(2) requires observers to present photo identification at the time of signing the observer log, and that the chief inspector verifies that the observer's signed name on the Observer Log matches the photo identification. That section also requires observers to legibly list their name on the Observer Log, and the G.A.B. has modified the Election Observer Log ([GAB-109](#)) for this purpose, which is attached. Finally, Section 4.02(2) states that the Election Observer Log is not available for

inspection by observers or the public until after the election, a change made in response to concerns expressed by some observers about their addresses being made available to other observers.

- 3) Section 4.02(3) clarifies that any limitation imposed on the number of observers must be based on physical space limitations.
- 4) Section 4.02(5) and other sections reflect recent legislative changes by requiring the observation area to be located 3 – 8 feet from the table where voters obtain a ballot and from the registration table at various voting or counting locations. **Please note that the municipal clerk and chief inspector must note any deviation from this standard on the Inspectors' Statement (GAB-104), and the clerk must notify the Board of any such deviation within seven days following an election.**
- 5) Section 4.02(8) and several other sections permit the chief inspector to designate another inspector to handle questions and inquiries.
- 6) Section 4.02(18) specifies that any clothing or buttons worn by observers may not be intended to influence the election, regardless of whether a candidate is mentioned or portrayed on the clothing or button.
- 7) Section 4.02(20) requires that, when an observer is ordered to leave a voting location, the chief inspector is to provide the observer with a written document summarizing the reason for the order, signed by the chief inspector and an inspector of the opposite political party. The section clarifies the chief inspector's sole authority to decide to remove an observer and the other inspector's option to note concurrence or disagreement. The G.A.B. has created Form [GAB-110](#) for this purpose, which is attached to this memorandum.
- 8) Section 4.02(21) requires municipal clerks to provide the Board with documentation regarding the removal of any election observer within seven days of an election, and requires Board staff to present a report to the Board regarding such incidents.**
- 9) Section 4.06(1) requires any individual wishing to observe voting at a location served by special voting deputies to notify the municipal clerk at least 24 hours in advance of the voting.
- 10) Section 4.06(3) clarifies that the observation area at a nursing home or adult-care facility must not be located to permit an observer to hear conversations between a voter and an individual providing assistance to the voter. Please note that voters have a constitutional right to a private ballot, and should not be permitted close enough to a voter to hear how an elector instructs an assistor to mark their ballot.
- 11) Section 4.07(6) specifies that any detailed plan governing a recount at the state or local level may supplement the rules regarding election observers, provided that it balances the public's right to observe the recount process with the responsibility of local election officials to conduct the recount.

The Legislature also requested that the Board remove the prohibition on observers using cameras at polling places or other locations where voting takes place. The Board did not approve this revision and therefore the rules in effect for the Partisan Primary will continue to prohibit the use of cameras by observers at those locations, except for the media and the Board's accessibility auditors or other accessibility advocates.

The G.A.B. has also revised its [Observer Rules-at-a-Glance brochure](#) which is attached. Please make this brochure available for inspectors and Special Voting Deputies to provide to observers. Any questions regarding this information may be directed to the G.A.B. Help Desk at **GAB@wi.gov** or (608) 261-2028.