

State of Wisconsin \ Government Accountability Board

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DATE: February 16, 2012

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

FROM: Nathaniel E. Robinson
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Government Accountability Board

SUBJECT: Voter ID Procedures: Tech. College IDs and Univ./College IDs Containing Stickers

The Government Accountability Board adopted certain guidance on September 12, 2011 and November 9, 2011 regarding the use of Wisconsin Technical College Student IDs, and university or college student IDs in general that may contain stickers, to satisfy the new proof of identification requirements prescribed by 2011 Wisconsin Act 23.

The Joint Committee for Review of Administrative Rules has required the G.A.B. to promulgate emergency rules regarding the Board's guidance and this rulemaking process is underway. This Memorandum shall provide clarification of the Board's guidance for purposes of the February 21, 2012 and April 3, 2012 elections. The guidance contained herein shall be applicable until further notice from the G.A.B.

Wisconsin Technical College Student IDs

In 2011 Wisconsin Act 23, the Legislature established a voter identification requirement for electors to receive a ballot. The legislation delineates the types of identification that may be used to meet the requirement. Wis. Stat. §5.02 (6m). These types of identification include "an unexpired identification card issued by a university or college in this state that is accredited as defined in s. 39.30 (1)(d)."

On November 9, 2011, the G.A.B. made a determination that a Wisconsin Technical College System (WTCS) institution is accredited under Wis. Stat. §39.30 (1)(d). Based on that determination, the Board directed staff to include WTCS student ID cards as an acceptable form of identification for voting in its training and educational materials as part of the agency's responsibility to administer the voter identification law pursuant to Wis. Stat. §5.05 (1).

As a result of the Board's guidance, over 400,000 WTCS students have, as an alternative, the same use of a student identification card for voting purposes that is available to students at other universities and colleges in Wisconsin.

The Board's analysis applied judicially accepted rules of statutory interpretation. It looked first to the plain language of the statute. The Board determined that WTCS institutions are accredited under Wis. Stat. §39.30 (1)(d). In the absence of an applicable statutory definition of college or university, the

Board relied on commonly used dictionary definitions of college which included institutions similar to the WTCS. In applying the plain language of the statute as required by law, the Board chose not to rely on a staff analysis which traced the legislative history of the student identification card provision in Act 23. In view of the plain language of the statute linking the use of identification cards to those higher education institutions accredited under Wis. Stat. §39.30 (1)(d), the Board determined that it and a reviewing court would not attempt to decipher legislative intent under standard rules of statutory construction. The Board determined that the law as written included WTCS institutions.

Wisconsin University and College Student IDs Containing Stickers

At its meetings of September 12, 2011 and November 9, 2011, the G.A.B. adopted motions to permit accredited Wisconsin universities and colleges to use stickers on identification cards as a means of complying with the provisions of Wis. Stat. §5.02. The Board's determination was made in response to inquiries from several public and private institutions indicating that current student identification cards would not comply with the requirements of the law and that they wished to consider using stickers to affix information to existing cards as a cost-effective method of providing voter-compliant proof of identification.

The Board determined that permitting the cardholder's signature and the issuance and expiration dates of the card to be affixed by an adhesive sticker with sufficient security and verification safeguards would comply with the provisions of Wis. Stat. §5.02.

The Board's guidance specifies that stickers affixed to compliant identification cards (1) must be tamper-evident so that removal of the sticker would make it unusable; (2) must not obscure other information on card; (3) must include an indication that it was issued by the institution such as a school logo or identifier; (4) must be affixed by personnel of the institution; and (5) may contain only the cardholders signature and the issuance and expiration dates of the card.

Wisconsin Statute §5.02(6m)(f) describes one of the acceptable forms of identification that may be used to obtain an election ballot as follows:

An unexpired identification card issued by a university or college in this state that is accredited, as defined in s. 39.20(1)(d), that contains the date of issuance and signature of the individual to whom it is issued and that contains an expiration date indicating that the card expires no later than 2 years after the date of issuance if the individual establishes that he or she is enrolled as a student at the university or college on the date that the card is presented.

Wisconsin Statute §5.02(16c) further provides that an acceptable form of proof of identification must contain the cardholder's name and photograph.

The Board's analysis on September 12, 2011, which was reaffirmed on November 9, 2011, applied judicially accepted rules of statutory interpretation. The Board looked first to the plain language of the statute, which requires that identification cards must "contain" certain data. In the absence of an applicable statutory definition of "contain," the Board relied on commonly used dictionary definitions of the term "contain" which include "to have within" and "include."

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