

State of Wisconsin \ Government Accountability Board

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DATE: October 29, 2012

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

FROM: Nathaniel E. Robinson
Elections Division Administrator
Government Accountability Board

SUBJECT: Guidance Regarding Proof of Residence and Election Observer Issues

During the course of preparations and training for the November 6 General and Presidential Election, Board staff have responded to numerous inquiries regarding the role of election observers and the requirements for certain voters to present a document proving their residence when registering to vote.

The requirement to present proof of residence applies to individuals who are first-time voters in Wisconsin who register by mail, and to individuals who register during the late registration period and on Election Day. The issue of observer rules and behavior has become highlighted in recent elections, including in reports concerning the June 5, 2012 Recall Election in Racine County.

These topics received a thorough discussion by the Board subsequent to two separate inquiries, one from the Republican Party of Wisconsin (RPW) and one from the Wisconsin Institute for Law & Liberty, on these issues. Attached are G.A.B. staff's responses to those inquiries, which were then endorsed by the Board at their October 23, 2012 meeting. We are providing these materials to local election officials so that you are aware of the G.A.B.'s policy regarding these issues and the legal basis for that guidance.

The responses focus on the following points:

- A document submitted as a "proof of residence" must fall into one of the established categories of Wis. Stat. § 6.34. Electronic proof of residence does not expand that statutory list, but merely provides for alternative formats of the document. G.A.B. staff have provided detailed guidance to election officials on how to handle electronic proof of residence.
- Any member of the public, except a candidate, has the right to observe the public aspects of the voting process. Observers are present to witness that election officials are following the legal process -- not to verify each action taken by voters and election inspectors.
- Observers are not to view a voter's registration form and proof of residence documents while a voter is registering. If time later permits and it does not delay or disrupt the voting process, the chief inspector may permit observers to view registration forms or proof of residence document (if they are submitted by electors). Observers may not view confidential aspects of the documents, including date of birth, driver's license or state ID number, social security numbers,

account numbers and information regarding financial transactions or medical history, or the address of a confidential voter. This confidential information would need to be redacted prior to providing a copy of the document to the observer.

- Observers must remain in the designated observer area, which is to be located between 6 and 12 feet from the area where voters and election officials conduct their business. Election officials may deviate from the 6-12 foot rule for good cause (blocked sight lines, abnormal noise levels, etc.). The chief inspector should work with observers to establish a reasonable balance between the public's right to access and the election official's responsibility to efficiently and effectively administer the election.

The Board is process of once again sending a letter to organizations that sponsor observers to remind them of the rules governing their conduct.

If you have questions regarding the attached guidance, please contact the Government Accountability Board at (608) 261-2028 or via email our Help Desk at GABHelpDesk@wi.gov, or (608) 261-2028. Thank you.

cc: Kevin J. Kennedy
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