

COPY

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

IN RE: PETITIONS TO  
RECALL GOVERNOR SCOTT  
WALKER, LIEUTENANT  
GOVERNOR REBECCA  
KLEEFISCH, SENATOR  
SCOTT FITZGERALD,  
SENATOR VAN  
WANGGAARD, SENATOR  
TERRY MOULTON, SENATOR  
PAM GALLOWAY,

Case No. 12CV0295

GOVERNOR SCOTT WALKER,  
LT. GOVERNOR REBECCA KLEEFISCH,  
SENATOR SCOTT FITZGERALD,  
SENATOR PAM GALLOWAY,  
SENATOR TERRY MOULTON,  
SENATOR VAN WANGGAARD,

COMMITTEE TO RECALL WALKER,  
COMMITTEE TO RECALL KLEEFISCH,  
COMMITTEE TO RECALL SCOTT FITZGERALD,  
RECALL SENATOR PAM GALLOWAY,  
COMMITTEE TO RECALL MOULTON,  
COMMITTEE TO RECALL WANGGAARD,

and

GOVERNMENT ACCOUNTABILITY  
BOARD,

Interested Parties.

2012 JAN 20 PM 3:22  
DANE CO. CIRCUIT COURT

**AFFIDAVIT OF KATHRYN MUELLER**

STATE OF WISCONSIN        )  
  )  
COUNTY OF DANE            )

Kathryn Mueller, being first duly sworn, deposes and states as follows:

(1) I am employed by the Wisconsin Government Accountability Board (“GAB”) as an Elections Specialist. I have been working at the GAB, formerly the State Elections Board, since 2006. I initially held the position of State Voter Registration System election specialist, working on the implementation of the Statewide Voter Registration System. In 2009, I was hired as a Training Coordinator to create and implement the Wisconsin Election Data Collection System (WEDCS). WEDCS is a database made possible through a federal grant, that collects post-election data from all 1,851 municipalities in Wisconsin. GAB hired me in 2010 to implement the Military and Overseas Voting Empowerment (MOVE) Act and to coordinate the requirements of a federal lawsuit regarding the MOVE Act. My current title is Election Specialist, Military and Overseas Voting.

(2) I also have special responsibility for the current recall petition review, serving as the Recall Team Lead. In that role, I am supervising the review of recall petitions offered for filing with GAB.

(3) I am making this affidavit in support of the GAB’s request for additional time to complete its statutory duties under Wis. Stat. § 9.10(3) with respect to recall petitions offered for filing with GAB on January 17, 2012. I have personal knowledge of the matters discussed herein.

## RECALL PETITIONS RECENTLY OFFERED FOR FILING WITH GAB

(4) On January 17, 2012, recall petitions were offered for filing with GAB respecting six state officeholders. Their names, districts, the number of valid signatures required to trigger a recall election, and the approximate number of signatures offered with the petitions are set forth here.

<u>Officer Name</u>	<u>Needed</u>	<u>Offered<sup>1</sup></u>
Governor Scott Walker	540,208	1 million
Lieutenant Governor Rebecca Kleefisch	540,208	845,000
Senator Scott Fitzgerald (13 <sup>th</sup> Dist.)	16,742	20,600
Senator Pam Galloway (29 <sup>th</sup> Dist.)	15,647	21,000
Senator Terry Moulton (23 <sup>rd</sup> Dist.)	14,958	21,000
Senator Van Wanggaard (21 <sup>st</sup> Dist.)	15,353	24,000

### GAB'S FACIAL REVIEW OF THE RECALL PETITIONS

(5) Attached hereto as **Exhibit 1** is a December 13, 2012, Memorandum describing the detailed procedures the GAB staff has been implementing to assist the GAB in completing its careful examination of the petitions. The specific steps are set forth, in particular, in Sections II of the Memorandum.

(6) The GAB voted unanimously on December 13, 2011, to approve the procedures described in Exhibit 1, and GAB staff has since that time worked to implement them.

(7) On January 5, 2012, Judge J. Mac Davis issued a declaratory judgment regarding GAB's duties in reviewing recall petition, in a case entitled

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<sup>1</sup> These numbers were provided by the recall petitioners when the petitions were offered for filing with GAB on January 17, 2012; the agency has not attempted to estimate independently the number of signatures in the petitions.

*Friends of Scott Walker, et al. v. GAB, et al.*, Case No. 2011-CV-4195 (Waukesha). GAB staff has met and conferred regarding how to comply with the judge's ruling. GAB staff has implemented certain procedures, described below, to address the court's ruling. Certain aspects of the new procedures, however, are yet to be worked out.

(8) Based on the statements of the recall petitioners that they made when offering their petitions for filing, the approximate number of signatures contained in the six petitions offered for filing on January 17, 2011, is **1.931 million**.

(9) The approximate number of signatures in the petitions is considerably more than GAB staff anticipated in December 2011 when it presented its plan for review to the GAB. (See Exhibit 1). The approximate number presented appears to be approximately 26% higher than that estimate.

(10) The number of signatures on a single petition page may vary. The recall petitioners have stated the approximate number of pages in their petitions to be **305,700**.

(11) In order to complete the review process, GAB is hiring up to 50 temporary workers. At this point, GAB has hired about 30 of those temporary workers. GAB staff continues to work on ways to obtain additional temporary staff.

(12) Each petition page has already been, or will be fed through a high-speed scanner to create a PDF image. As of this writing, scanning has been completed on the four Senate recall petitions. Scanning of the Walker and Kleefisch petitions is likely to take several more days. The electronic files will be made

available to the officeholders and the recall petitioners. They will also be made available to the general public via the GAB website.

(13) Each petition will be reviewed twice by two different temporary staff workers, who will check the petitions for compliance with legal requirements. This review is of the information contained on the "face" of the petition, and will not involve the use of extrinsic sources.

(14) GAB staff will maintain a database to keep track of signatures that are identified as non-compliant with legal requirements. The database will track, for each petition page, how many signatures were identified by GAB staff as valid, how many were identified as invalid, and the reason(s) therefor.

(15) If GAB temporary staff encounters a signature that appears to be that of a fictitious person, staff will "flag" that signature for further review.

(16) If GAB temporary staff encounters a signature with an address that is difficult to read, it will apply the following criteria:

1. If the street number is simply a scribble so that no part of it can be determined, the staff will identify the signature as noncompliant.
2. If the street name is simply a scribble so that no part of it can be determined, the staff will identify the signature as noncompliant.
3. If the reviewer can discern a possible street number and name, even without being sure of the exact street number and name, the signature is counted as valid.
4. If the first and second reviewers disagree as to the legibility of the street address, the signature is escalated for a review and determination by supervising staff. The reviewing staff will determine the validity of the signature by reviewing the face of the petition, without being required to consult extrinsic evidence, and recognizing the statutory presumption of validity of information on the petition. In the event that the reviewing

staff determines that the signature is equally likely to be valid or invalid, the signature shall be counted during the staff's initial review and may be subject to further review if the signature is challenged.

(17) GAB has obtained the use of a computer software package that will be used to examine the PDF files of the petition pages in an effort to identify potentially duplicate signatures. The software operates using optical character recognition. The only reason GAB believes this software might enable it detect duplicates is because it is believed that many petition pages will contain printed names and not only signatures. The software cannot reliably translate handwriting into a database with an acceptable degree of confidence. The software requires that GAB staff members monitor the program as it operates, applying their judgment with regard to both the spelling of names generated by the software and the possible duplicates that the program detects.

(18) Given the very large approximate number of signatures offered for filing, in particular with the Walker and Kleefisch petitions, which appear to include 185% and 150% more signatures, respectively, than are legally required, GAB staff has not yet decided whether it will be necessary to examine every petition signature individually to check for duplicates, or whether it will only be necessary to examine a certain portion of the pages to determine the rate at which duplicates appear in the petitions. GAB is committed to implementing and executing a reasonable process for detecting duplicates, recognizing the need not to delay a determination of sufficiency any more than is reasonably necessary. GAB is

currently evaluating options for how to implement this process in as effective and time-efficient a manner as possible.

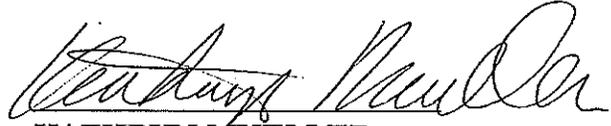
(19) GAB staff will request that any challenges to the petitions be filed electronically. If not filed electronically, GAB staff will hand enter information regarding the challenges into GAB's database. GAB staff will compare the challenges to the results of the staff's own review of the petitions. If a signature is challenged that was not identified by GAB staff as non-compliant with legal requirements, that signature will be reviewed by GAB staff for further consideration. If staff concurs with the challenge, it will record that information.

(20) The end result of this process is an electronic file or set of files that show, by petition page and line number, each signature that has been identified by GAB staff as non-compliant with legal requirements, identified as a duplicate by staff, and those challenged, with GAB staff's view on the merits of the challenges.

(21) GAB staff will prepare a memorandum for each petition, recommending whether the GAB should certify the petition as sufficient or not, with detailed reasons for the recommendation and supporting information from the review process and challenges received. In keeping with past practice, this memorandum will be made available to the public.

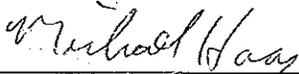
[signature page follows]

Dated at Madison, this 20<sup>th</sup> day of January, 2012.



KATHRYN MUELLER  
Government Accountability Board  
212 E. Washington Avenue  
Post Office Box 7894  
Madison, WI 53707-7984

Subscribed and sworn to me  
this 20<sup>th</sup> day of January, 2012.



Notary Public, State of Wisconsin  
My Commission: IS PERMANENT

# State of Wisconsin \ Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chairperson

KEVIN J. KENNEDY  
Director and General Counsel

## MEMORANDUM

**DATE:** For the December 13, 2011 Meeting

**TO:** Members, Wisconsin Government Accountability Board

**FROM:** Kevin J. Kennedy  
Director and General Counsel  
Government Accountability Board

Prepared by:

Recall Strategic Response Team  
David Buerger, Co-Team Lead  
Katie Mueller, Co-Team Lead

**SUBJECT:** Recall Status and Proposed Administrative Processes

Once again Wisconsin faces an unprecedented number of recalls. Committees have formed to recall the Governor, Lieutenant Governor, and four additional state senators. Since the Wisconsin Constitution was amended in 1926 to allow recall for state officials, 13 state legislators have been successfully subjected to an actual recall election, with 9 of those in the last year alone. While the recalls earlier this year have given G.A.B. staff valuable experience in administering the recall process, the scale of even a single statewide recall is a daunting challenge that far exceeds anything Wisconsin has seen in its history. Including the recall of a second statewide office and four state legislators puts this recall effort far above and beyond anything ever attempted before in the history of the state, and perhaps even the nation. If the recall petitions are turned in with the same percentage signature buffer as the recalls earlier this year (~130%), the G.A.B. is faced with examining approximately 1,500,000 signatures in only 31 days.

It is within this historical and unprecedented context that the Board staff have begun to provide advice and guidance to persons interested in recall efforts, registered recall committees, and incumbents who are the targets of recall efforts. Staff are also preparing to administratively process the recall petitions and any resulting elections. This Memorandum is divided into two sections. The first section gives an update as to the status of the recall committees that have filed with the Government Accountability Board, and is presented for information only. The second section is subdivided into multiple subsections that each describe an aspect of the proposed procedures to be used in the pending recalls. Staff seeks any feedback the Board wishes to provide and the Board's approval of the proposed administrative procedures which are outlined.

### I. Recall Status Report

As of December 1, 2011, nine separate recall committees have registered to circulate petitions against six officeholders, all of whom will have been in office at least one year as of January 3, 2012, and will be eligible for recall. Of these nine committees, three target Governor Scott Walker, two target Lieutenant Governor Rebecca Kleefisch, and one committee has filed against

EXHIBIT 1

each of the following State Senators: Senator Scott Fitzgerald (SD 13), Senator Van Wanggaard (SD 21), Senator Terry Moulton (SD 23), and Senator Pam Galloway (SD 29).

Detailed information regarding the nine registered recall committees may be found on the Board's website at <http://gab.wi.gov/elections-voting/recall>. The situation appears to have solidified somewhat at this time, with no new registrations since the initial wave of filings the week of November 14. There is however, one committee that has some deficiencies in their registration.

Close Friends to Recall Walker, which registered on November 4, had some defects in their Campaign Registration Statement (GAB-1). Close Friends to Recall Walker was contacted regarding the insufficiencies and advised that they would need to file a corrected Campaign Registration Statement or the registration will be terminated. As of the time of this memo, no amended registration has been received from the Close Friends to Recall Walker.

The number of signatures petitioners targeting the Governor or Lieutenant Governor must have certified as sufficient by Board staff to trigger a recall election is a minimum of 540,208 signatures. The number of signatures petitioners targeting the State Senators must have certified as sufficient by Board staff to force a recall election varies from 14,958 to 16,742 signatures depending upon the specific Senator. These signature figures are based upon a calculation of 25% of the electors that voted for Governor on November 2, 2010, statewide or in each Senate district. The signatures must be collected and filed within 60 days of the recall committee's registration with the G.A.B. Board staff expect to receive recall petitions for review and determination of sufficiency at any time, but no later than January 17, 2012, based upon the recall committees' registration dates.

A brief breakdown of the offices against whom recall registrations were filed and the number of recall committees registered follows:

District	Officeholder	# Comm.	Notes
Statewide	Governor Scott Walker	3	
Statewide	Lieutenant Governor Rebecca Kleefisch	2	
SD 13	Senator Scott Fitzgerald	1	
SD 21	Senator Van Wanggaard	1	
SD 23	Senator Terry Moulton	1	
SD 29	Senator Pam Galloway	1	

Since circulation began in earnest on November 15, there have been a number of media reports of alleged illegal activity by both sides. Reports include allegations of circulators trespassing on private property/disrupting traffic, fraudulently forging signatures on petitions, and circulating petitions before the recall committee registration date. Reports also include allegations of opponents to the recall presenting false petitions to electors in the hopes of keeping them from signing the real petition, physically destroying petitions, and verbally or physically threatening recall supporters. These media reports are further supported by numerous phone calls and emails to the G.A.B. office reporting similar alleged activity.

#### Media Reports

*The recall Scott Walker effort, to date, has been anything but dull*  
[http://host.madison.com/ct/news/local/govt-and-politics/article\\_0beaccf0-1621-11e1-bc62-001cc4c002e0.html](http://host.madison.com/ct/news/local/govt-and-politics/article_0beaccf0-1621-11e1-bc62-001cc4c002e0.html)

*Liberal group offers petition destruction reward*

[http://www.journaltimes.com/news/local/state-and-regional/madison-liberal-group-offers-petition-destruction-reward/article\\_1fdcdf46-153b-11e1-b459-001cc4c03286.html](http://www.journaltimes.com/news/local/state-and-regional/madison-liberal-group-offers-petition-destruction-reward/article_1fdcdf46-153b-11e1-b459-001cc4c03286.html)

*Police investigate claim that Edgewood College student destroyed Scott Walker recall petition*

[http://host.madison.com/ct/news/local/govt-and-politics/city-hall/police-investigate-claim-that-edgewood-college-student-destroyed-scott-walker/article\\_7ae65858-1af5-11e1-89b5-001cc4c03286.html](http://host.madison.com/ct/news/local/govt-and-politics/city-hall/police-investigate-claim-that-edgewood-college-student-destroyed-scott-walker/article_7ae65858-1af5-11e1-89b5-001cc4c03286.html)

*Madison police probe 3 more reported crimes against Walker recall campaign*

[http://host.madison.com/ct/news/local/crime\\_and\\_courts/madison-police-probe-more-reported-crimes-against-walker-recall-campaign/article\\_c960d8ec-1b4e-11e1-84bd-001cc4c002e0.html](http://host.madison.com/ct/news/local/crime_and_courts/madison-police-probe-more-reported-crimes-against-walker-recall-campaign/article_c960d8ec-1b4e-11e1-84bd-001cc4c002e0.html)

*Civility lost in political upheaval*

<http://www.jsonline.com/news/statepolitics/Civility-lost-in-Wisconsin-turbulent-political-season.html>

Staff are working with law enforcement across the state to funnel these recall-related complaints to the G.A.B. so that staff can assess each complaint for further action or referral to authorities, as necessary. On December 1, 2011, Director Kennedy, along with the Department of Justice, presented a telephone conference to Wisconsin district attorneys regarding the types of election-related complaints which are enforced and prosecuted by local law enforcement. The G.A.B. has offered to serve as a clearinghouse for complaints filed around the State and to assist in referring complaints to the appropriate decision maker. The Department of Justice has also indicated that it is available to assist district attorneys in the investigation and prosecution of recall-related incidents. On December 1, G.A.B. and DOJ also issued a joint media release emphasizing the serious nature of and penalties associated with violations of the elections statutes.

### Litigation

Lawsuits have been filed in both federal and state courts related to the recently-enacted redistricting legislation which potentially could impact the administration of the recall petitions and any elections. Two lawsuits have been filed and consolidated in the Eastern District federal court challenging the constitutionality of the new district boundaries. The petitioners also seek a declaration that the any recall elections prior to November 2012 must be conducted using the legislative district boundaries which existed prior to the passage of the new redistricting laws, which has been the position adopted by the Board based upon the express language of the legislation. The federal court has issued a scheduling order which includes trial dates the week of February 21, 2012.

Another group of plaintiffs have filed lawsuits in the Wisconsin Supreme Court and the Waukesha County Circuit Court seeking a declaration that the "old" legislative districts are unconstitutional and that the new districts must govern any recall or special elections which take place after August 24, 2011. The Board is represented by the Department of Justice in the federal and state litigation.

In the event that any of the pending litigation results in a court finding that recall elections associated with the current petitions must use the new district boundaries, the Board would look to the court for guidance as to the proper procedures to be followed for administering any recall elections.

Finally, Board staff has determined that if a petition for a statewide recall (Governor or Lieutenant Governor) is filed, it will be necessary to seek court approval for an extension to

complete the review and challenge process. Staff has estimated that the review and challenge process will require a 60-day timeline rather than the 31-day time period established by statute.

## II. Proposed Administrative Processes

Staff is largely operating under the same recall procedures as were approved by the Board in the prior round of recalls. Experience from the last round of recalls and the scale of the pending recalls however, have prompted some new procedures.

### A. Registration

The registration of recall committees has been conducted largely as it was in the previous round of recalls. Each committee has been required to file a Campaign Registration Statement (GAB-1) identifying itself as a recall committee targeting a specific officeholder and providing other relevant details of the committee such as contact and depository information. Each recall committee is also required to file a Statement of Intent (SoI), which identifies the petitioner, the officeholder targeted, and is signed by the petitioner. Unlike the prior round of recalls, the petitioners have been directly listed on the GAB-1 for most committees, eliminating any potential argument regarding the ties between the petitioner and the recall committee.

Upon registration, each recall committee is sent a letter confirming their registration and providing important information such as the deadline to offer the recall petition for filing with the G.A.B., the deadline for circulation of the petition, the minimum required number of signatures, and campaign finance reporting deadlines. The letter also directs the committee to the G.A.B.'s Recall Manual for further details.

Please Note: Staff has changed computation of the deadline to circulate the recall petition to a straight 60-day period upon advice of counsel. See Wis. Stat. § 9.10(2)(d), 990.001(4)(b), and (c). Each recall committee has been advised of the change from the prior round of recalls in their initial registration correspondence. As a result of weekend dates and the Martin Luther King, Jr. holiday, all of the committees which registered on November 15, 2011 must offer petitions for filing no later than 5:00 p.m. on Tuesday, January 17, 2012, but all signatures must be collected no later than Saturday, January 14, 2012.

In addition, upon registration of a recall committee, a letter is generated to the targeted officeholder advising that a recall has been registered against them. This letter accompanies a copy of the recall committee's GAB-1 and our correspondence to the committee. Also, enclosed with this letter are memoranda informing the officeholder of certain ethics and campaign finance requirements that go into effect for the duration of the recall petition effort and any election period resulting from the petition.

### B. Capacity Building / Training

Staff estimates that 1.5 million signatures will be reviewed during the processing of recall petitions in 2012. This volume of signatures will require the Board's staff to be supplemented with temporary staff to review the facial validity of the petition signatures and assist with challenge reviews. In order to complete the review process in the estimated eight weeks allotted, staff expects up to 50 temporary workers to assist in the process.

These temporary staff will be organized into teams for the intake, scanning, reviews, and data entry of certain information from the petitions, as well as assistance with processing

the legal challenges to the petitions. Each team will be supervised by other temporary staff that have been more extensively trained in the policies and procedures of signature validation and specifically recruited for leadership ability and supervisory experience. G.A.B. also plans to employ a temporary legal staff person to assist with the processing of challenges that rely on more detailed documents such as affidavits and related exhibits.

Staff are in the process of finding an additional secure location to house the 50 temporary workers for the eight weeks needed to review the recall petitions as well as the estimated 300,000 petition pages. Supplies such as tables, chairs, filing cabinets, scanners, computers, and other office supplies will be ordered and set up in the new location anticipating the needs of the temporary staff. The recall committees will be informed of the new location when it is determined and directed to deliver the recall petitions to that location.

As mentioned above, eight of the 50 temporary staff will be recruited to serve as "team leaders" based on leadership ability and supervisory experience. These staff will be brought in for interviews with G.A.B. staff before hiring and trained more extensively to supervise and answer basic questions from the other 42 temporary staff. All temporary staff will be subjected to a criminal background check as well as a partisan activity check, as are all G.A.B. staff members, before being hired. The partisan background check will include a search of the Campaign Finance Information System for partisan campaign contributions as well as a self-certification from each applicant that they have not participated in the current recall efforts.

In order to promote professional behavior in the recall review process, all temporary staff will be required to sign an acknowledgement that they have received and read a copy of the Recall Review Team Code of Conduct. The code of conduct will establish the nonpartisan nature of the review, work rules, and the acts prohibited by any recall review staff. All temporary staff will also have to sign a statement certifying that they have not participated in or contributed to any of the current recall efforts.

The Recall Strategic Response Team members have been trained in the recall procedures used in processing recall petitions in 2011 and are preparing training materials for other staff. The training materials created by the Recall Strategic Response Team members will be used to train all Elections Division staff in case their assistance is needed as well as the temporary staff. Approximately one week before the petitions are to be filed, the 50 temporary staff will be trained on reviewing recall petitions.

A database is being customized by IT staff to track the signatures struck by staff and other petition information (see the Data Entry section below) to assist with challenge review. A select group of temporary staff will be entering this petition data into the customized system. These select temporary staff will also be trained in the usage of the new database in the week preceding the anticipated filing date.

#### C. Intake

The intake procedures are largely the same as they were in the prior round of recalls. When an authorized representative of the recall committee appears to offer the completed recall petition for filing, staff will request the representative estimate the number of pages and signatures. The representative will also be asked to confirm that the pages are sequentially numbered and in sequential order. The staff will then complete a recall petition receipt and make a copy for the representative.

Using the information from the receipt, another set of letters are generated to the targeted officeholder and the recall committee informing them that the petition has been offered for filing and advising them of the challenge process procedures and timeline. A digital copy of the petition will also be made and delivered to the committee and targeted officeholder as soon as possible following the receipt of the petition (see below Scanning section).

Before the petition is delivered to the scanning team, it must be broken down in preparation for scanning, the estimated number of pages and page numbering verified, and a chain of custody log prepared for tracking the petition. Temporary staff will separate the recall petition into stacks of 50 page numbers (1-50, 51-100, etc.) This is done to keep each scanned image reasonably-sized for upload to the G.A.B. website. During this breakdown process, temporary staff will also count the pages and verify unique consecutive page numbers have been applied, if not it is corrected at this time. If any pages are found to be missing, they are also documented at this time. All staff who handle the petition pages will be required to sign the chain of custody log before the petition is delivered to the scanning team.

#### D. Scanning

After each recall petition is received, temporary staff will need to create an electronic record of the petition. Board staff plan on using two high-speed scanners to create PDF images of each petition page. It is anticipated that two eight-hour shifts per day for two days will be required to scan in all of the petition pages. As the pages are scanned, electronic files will be created and will need to be reviewed and renamed. After all of the petition pages are scanned, an electronic copy will be provided to the recall committee and the targeted officeholder, and will be made available to the public.

The scanned copies of the recall petition will also assist during the challenge process. Staff will be able to more quickly locate individual signatures that have been challenged using the electronic version of the recall petitions. If the validity of the challenge can be determined from the electronic version the staff will use the scanned recall petitions in lieu of retrieving the paper petition.

#### E. Review of Petitions

The Board is charged with conducting a review of each petition page and its signatures to determine sufficiency. Each petition will be reviewed twice by two different temporary staff members. Pursuant to Wis. Stat. § 9.10(3) and Wis. Admin. Code GAB 2, the reviews conducted by the temporary staff will be facial reviews of the information on the petition. This is in conformance with the standard business practices of the G.A.B., used for all petition reviews including nomination papers and recalls. Temporary staff will be trained using the Determination of Sufficiency of Recall Petitions guide. The Determination of Sufficiency of Recall Petitions guide is attached to this memo as Exhibit A.

Per GAB 2.05(4), the first and second reviews are conducted based upon a presumption of validity of the information on the petition. This means that while temporary staff will verify that all the required elements are present on each page, they will not consult any extrinsic records to verify the truth of that information. It is important to keep in mind that petition signers must be qualified electors, but are not required to be registered voters, and therefore names of signers may not necessarily be included in the Statewide Voter Registration System.

The facial review conducted by temporary staff is not intended or designed to eliminate all potential reasons or arguments for petition insufficiency. The rules governing the recall process established by the statutes reflect the reality that the available time and resources do not permit a more extensive examination of each signature during the process of first and second reviews. Wis. Stat. § 9.10(2) specifically establishes the opportunity and obligation of the targeted officeholder to file verified challenges against any signatures alleged to be invalid. That statute lists several possible bases for a challenge, including the fact that an individual signed the petition more than once, or is ineligible to sign the petition for any reason such as a felony conviction or invalid address. The burden of proof for any challenge rests with the individual bringing the challenge.

#### F. Data Entry

The purpose of data entry is to help staff track the review process as well as facilitate challenge reviews. In the 2011 recall efforts the team utilized Microsoft Excel to manage the petition data. Due to the scale of the potential 2012 recall petitions, Microsoft Excel does not have the capacity to meet our operational needs. The 2012 Recall Team will utilize more advanced database technology for the pending recalls. It is anticipated that this more advanced database system will require customization by the G.A.B. technology staff to meet our needs. This will allow the team to better query information and utilize advanced reporting features.

The data entry efforts will focus on signatures that have been struck by G.A.B. staff or challenged by the targeted officeholder. Using the database the team will track, for each petition page, how many signatures were counted as valid, how many signatures were struck, and the circulator. The team will also track the line and page number of every signature that was struck along with the reason. The database will also track the ultimate determination of that signature's validity.

Data entry will also be used to track challenges by outside parties. The team will ask that all challenge information be submitted electronically so it can easily be uploaded into the challenge database. The challenge database will include the line and page number of the challenged signature, the reason for the challenge, and the ultimate determination on whether or not to count the signature.

Please Note: The data entry team will not enter all data elements for each recall petition. This means that most identifying information, such as names, addresses, municipalities, and dates of signing will not be recorded in the G.A.B. database and will not be available in any reports generated from the database (See Review of Petitions section above).

#### G. Challenge Review

Once the recall petitioner has offered to file a petition, the targeted officeholder will have an opportunity to file written challenges to the petition. The challenge to the petition must be filed within 10 days after the petition is offered for filing. The petitioner then has 5 days after the challenge is filed to file a rebuttal. The targeted officeholder then has the opportunity to file a reply to the rebuttal within 2 days after the rebuttal is filed. The G.A.B. then has 14 days after the deadline for the reply to determine the sufficiency of the petitions. Upon showing of good cause, these deadlines may be extended by court order. Wis. Stat. § 9.10(3)(b). Board staff anticipates requesting an extension for its 31-day period in the event of a petition for a statewide recall election. It is expected the officeholder may also request a court ordered extension for the challenge period.

Petitions are challenged for a variety of reasons. Some general categories include problems with signature dates, residential addresses, eligibility of the signer, duplicate signatures, improper certification of circulator, or alleged misrepresentation of the petition by the circulator. The recall petitioner may file affidavits correcting insufficiencies in the petition and responding to any challenges.

Staff will be requesting that all challenges to the petitions be filed electronically. Should the challengers fail to file their challenges electronically, the temporary staff will data enter the challenges. Working with challenges in an electronic format or database will allow the challenged signatures to be easily compared to those signatures that have already been struck. This comparison process will be performed by both G.A.B. staff and temporary employees. Should challenged signatures be found that were not struck during the initial petition review process, the signatures will be manually reviewed and the number of valid signatures adjusted if necessary. During the challenge review process, staff will enter updated information in the challenge database which will document the page, line, and reason the signature was struck.

At the conclusion of the review of the challenges, staff will prepare a memorandum providing a recommendation to the Board. This memorandum will provide a recommendation of sufficiency or insufficiency and a detailed breakdown of which signatures were struck and enumerate the reasons why they were struck.

Subsequent to G.A.B. staff providing a memorandum on sufficiency or insufficiency of the petitions, the Board shall hold a public hearing. These challenge hearings are administrative proceedings subject to statutory administrative procedures and potential court reviews and as such each recall petition shall be handled separately. The targeted officeholder or his or her representative shall be provided an opportunity to address the Board and present a statement or argument, for a maximum of 15 minutes. The recall petitioner or his or her representative shall also be provided an opportunity to address the Board and present a statement or argument for a maximum of 15 minutes. The targeted officeholder or his or her representative shall then be granted an opportunity to address the Board to reply to any new matter raised in the petitioner's argument to the Board.

After the challenger and petitioner have had their opportunities to speak, G.A.B. staff shall present its written report and recommendation to the Board for consideration. The Board may ask additional questions of the challenger, petitioner, or their representatives at any point of the proceeding. In addition, the Board may permit additional comments limited to no more than 5 minutes for each person. The Board has the power to restrict public comments as necessary to ensure that the challenger and petitioner have a full opportunity to be heard on each recall petition and to ensure completion of the hearing in a timely fashion.

#### H. Security

To ensure the integrity of the process, the physical security of the recall petitions is addressed through multiple methods.

The location of the recall petition review process will be in a secure building. Only individuals on the Government Accountability Board Management Team, the Government Accountability Board Recall Strategic Response (RSR) Team, or temporary staff escorted by G.A.B. RSR team members will be allowed in the area where the review of the petitions is occurring. All individuals will be required to sign in and sign out of the petition review area creating a record of who had access to the materials at any given time. Depending on

the space available, the Team will determine the extent to which the public may observe the process.

All petitions will be secured in a locked cabinet or other secure storage while the process is occurring. When a packet of petitions is checked out for review, the initials of the individual checking out the petitions will be recorded on a Chain of Custody Log. Also, during the petition review process, whenever a packet of petitions is under review, the initials of the employee conducting the review process will be clearly marked on all tracking sheets. This will allow staff to keep an accurate record of who had access to specific petition pages.

Upon the Board's final determination of sufficiency regarding the petition, the petition will be placed in a secure container, sealed with tamper-evident seals, and a final entry will be made on the Chain of Custody Log. Unless there is a pending appeal, these secured containers will then be stored at the State Records Center until any necessary period of retention has expired.

G.A.B. staff will plan to secure the petitions from the possibility of fire and other natural disasters or emergencies. Physical security will be a key feature of any location that is chosen for the recall review site. G.A.B. staff will develop contingency plans in the event of fire or other natural disaster so the review process can continue unimpeded. Having an electronic copy of the petition also helps ensure that no information can be completely destroyed. The G.A.B. will also work with Capitol Police to monitor the location closely and provide further physical security as needed.

#### I. Communications / Frequently Asked Questions (FAQ)

The two Co-Team Leads of the Recall Strategic Response Team will regularly (daily) collaborate with the Elections Division Administrator and the assigned Staff Counsel. The agency Director and General Counsel will be briefed as necessary. In addition to these daily status reports, a periodic update will be sent from the 2012 Recall Strategic Response Team to G.A.B. management to advise of the status of the Team's progress. The memorandum will include important upcoming events as well as identify important milestones in the timeline which have been met. A copy of the Team's official schedule will also be created which includes completed deadlines and future objectives. Periodic correspondence will also be generated for the recall committee and targeted officeholder to apprise them of each new phase of the process. Throughout the recall process, local election officials will be apprised via a clerk communication of any recall-related events which may affect local election administration.

The GAB website will be updated with information on the recalls on as-needed basis. The "Recall" section of the website will be updated to reflect each new committee's registration, targeted officeholder, signatures required, date the petition is offered for filing, and the estimated number of signatures filed. Other information specific to each committee will also be posted as it is available. News, status updates, and other events that are of the highest importance will also appear on the Government Accountability Board's homepage ([gab.wi.gov](http://gab.wi.gov)).

The Team will address questions received in the form of an FAQ. The FAQ will be included as a feature in the "Recall" section of the website. Questions which receive multiple inquiries or which address pertinent information will be added to the FAQ as they are received.

The Team will work closely with the GAB Public Information Officer to assure important deadlines and information is relayed to the public and the media in a timely matter. If an election date is set, the team will also communicate important information to local municipalities through the use of press releases that can be customized for distribution in their communities.

**Recommended Motion:** That the Board approve the proposed administrative processes as outlined in Section II of this memorandum for the review and processing of recall petitions offered for filing in 2012.