# State of Wisconsin\Government Accountability Board

212 East Washington Avenue, 3rd Floor
Post Office Box 7984
Madison, WI 53707-7984
Voice (608) 266-8005
Fax (608) 267-0500
E-mail: gab@wisconsin.gov
http://gab.wi.gov

JUDGE DAVID G. DEININGER
Chair

KEVIN J. KENNEDY
Director and General Counsel

Delivered by email only

August 10, 2012

Dear Election Observer Organization:

Your organization has been identified as one which has encouraged and sponsored individuals to act as election observers at Wisconsin polling places during previous elections. The Government Accountability Board (G.A.B.) encourages citizens to observe the election process because such activity promotes fair and transparent elections, and assists in detecting issues which require attention at an early stage in the process. In recent elections, the G.A.B. has received an increasing number of reports describing aggressive or disruptive behavior by a minority of observers. This correspondence serves as a reminder of the code of conduct that applies to election observers, and seeks your assistance in ensuring that observers comply with Wisconsin Statutes governing their conduct.

In 2008, the G.A.B. initiated emergency administrative rules governing the conduct of election observers which have been credited with establishing consistent treatment of observers throughout the State and preserving order at the polls during recent elections. These emergency rules were revised and reinstated in 2010. The recreated Chapter GAB 4, Wis. Adm. Code, implemented the provisions of Sections 5.35(5), 7.37(2) and 7.41 of the Wisconsin Statutes and effectively balanced the rights and responsibilities of observers, election officials, and voters. While those emergency administrative rules have subsequently expired, the G.A.B. intends to promulgate identical provisions as permanent administrative rules in the future. In the meantime, the G.A.B. has directed local election officials to continue applying the terms of the emergency rules from 2010 as the G.A.B.'s interpretation of the relevant Wisconsin Statutes.

Attached to this correspondence is a copy of the observer regulations which the G.A.B. has advised clerks to continue to apply and enforce, which may also be located on our website at http://gab.wi.gov/publications/rules/gab004. Key provisions of these rules include the following:

1. Election observers must notify the chief inspector upon arriving at the polling place, and must sign in with their full name, address, and the name of the organization or candidate the observer represents, if any.

2. The chief inspector may reasonably limit the number of observers representing a particular organization or candidate if necessary to ensure the orderly conduct of the election and equal participation amongst the organizations represented.

3. Observers shall remain in the area designated as the observation area by the chief inspector. The observation area must be situated to enable observers to observe all public aspects of the voting process. When physically feasible, the observation area shall be from six to twelve

feet from the table at which electors announce their name and address. Election inspectors shall repeat the voter's name and address if observers are unable to hear the voter.

4. All of the observers' questions and challenges shall be directed to the chief election inspector. **Observers shall not have direct contact with electors in the polling area, unless requested by a voter to assist with casting a ballot.**

5. Observers shall comply with lawful commands of the chief inspector or shall be subject to removal from the polling place. Observers shall not engage in loud, boisterous or disruptive behavior, or interfere with voting or the conduct of the election. The chief inspector shall warn any offending observer, and if the conduct continues, law enforcement may be summoned to remove the observer. In that case the individual will not be permitted to act as an observer at the same or another polling place for the duration of the election.

6. Observer conversations shall be kept to a minimum. Observers shall not engage in electioneering and shall not use cell phones to make voice calls. Observers also may not use any video or still cameras inside the polling place while polls are open, but may do so after the polls close provided that such use is not disruptive or interferes with the administration of the election. Observers shall not handle an original version of any election document, including ballots and poll books.

The G.A.B. encourages the responsible exercise of the right to observe the election process. If an observer believes an issue or irregularity has occurred, and is not satisfied with the response of the chief inspector or the municipal clerk, your organization or the individual observer is welcome to contact our staff to determine whether it is appropriate for the G.A.B to intervene. However, behavior that is disruptive, including conversing with or intimidating voters, or questioning election inspectors other than the chief inspector, will not be tolerated.

We appreciate your organization reminding your observers of the code of conduct which they are required to follow at upcoming elections. For questions regarding this correspondence, please contact the G.A.B. Help Desk at (608) 261-2028, or gabhelpdesk@wi.gov, or Staff Counsel Michael Haas, who may be reached at (608) 266-0136 or michael.haas@wi.gov.

Best wishes and kind regards,

**NATHANIEL E. ROBINSON**
Elections Division Administrator
Government Accountability Board