

# Government Accountability Board

## State of Wisconsin

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## G.A.B. Resolves Lawsuit on Campaign Ad Rules

MADISON, WI – The Government Accountability Board has reached a resolution with the plaintiffs in the federal lawsuit filed by Wisconsin Club for Growth and One Wisconsin Now. The Board has agreed to stipulate to an injunction with regard to the application of some of the language in the rule.

“This proposed injunction allows the Board to continue to enforce our administrative rule, consistent with recent United States Supreme Court decisions,” said Kevin J. Kennedy, director and general counsel of the G.A.B. “The Board will be able to require disclosure of the identity of those sponsoring communications that are susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate. Such ads do not need to say “vote for” or “support” to be subject to regulation. The lawsuit’s resolution removes language that established an irrebuttable presumption that certain activity should always be considered campaign-related and better reflects the Board’s initial intent in promulgating the rule.”

Under the terms of the settlement, the Board agrees not to apply the second sentence of Wis. Admin. GAB § 1.28(3)(b) as an irrebuttable presumption. That sentence reads:

A communication is susceptible of no other reasonable interpretation if it is made during the period beginning on the 60<sup>th</sup> day preceding a general, special, or spring election and ending on the date of that election or during the period beginning on the 30<sup>th</sup> day preceding a primary election and ending on the date of that election and that includes a reference to or depiction of a clearly identified candidate and:

1. Refers to the personal qualities, character, or fitness of that candidate;
2. Supports or condemns that candidate’s position or stance on issues; or
3. Supports or condemns that candidate’s public record.

The entire text of Rule 1.28 is available on the [G.A.B. website](#).

The Board agreed to the stipulation on the advice and recommendation of counsel from the Wisconsin Department of Justice. It is subject to approval of the Court.

GAB 1.28 was approved by the Board in March 2010 and submitted to the Legislature, which has the power to block the rule. In July, the Senate Committee on Labor, Elections and Urban Affairs and the Assembly Committee on Elections and Campaign Reform both reported taking no action on the proposed rule. The rule became effective August 1, 2010.

“The focus of this rule has always been to carry out the Legislature’s intent to ensure the public’s right to know the sources of campaign advertising,” Kennedy said.

Wisconsin’s comprehensive campaign finance laws, established following the Watergate scandal in the early 1970s, remain in effect, consistent with U.S. Supreme Court decisions. This includes the 25-year-old requirement that committees or individuals making independent expenditures of more than \$25 in a calendar year register and disclose the sources of their funding and the nature of their spending. A filing fee of \$100 is required only for those groups that spend more than \$2,500 in a calendar year.

Because of the ongoing nature of pending lawsuits, the Board is not able to offer further comment on the proposed settlement.

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The Government Accountability Board (G.A.B.) is responsible for administration and enforcement of campaign finance, elections, ethics and lobbying laws in Wisconsin. The G.A.B. is made up of six non-partisan, former judges and is supported by an agency of non-partisan staff members.