

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 THOMAS H. BARLAND
Chair

KEVIN J. KENNEDY
Director and General Counsel

July 18, 2011

Sent by email to VerifiedVote2004@aol.com

Jonathan Simon
Election Defense Alliance

Dear Mr. Simon:

You have asked for information from the Government Accountability Board concerning Wisconsin law with respect to the conduct of exit polls. We have reviewed the revised exit poll format and informational sheet you provided and believe it is much improved over the original version which resembled a ballot, asked individuals to "vote" and to place the completed survey in a "ballot box." We would prefer, however, that the informational sheet and survey page more prominently identify the sponsoring organization to minimize any confusion regarding the meaning of "Wisconsin Citizens' Exit Poll."

While we do not endorse or support any specific exit polling effort or methodology, I can confirm that handing out the revised survey to voters who are leaving the polling place would not in itself constitute electioneering, and may be permitted by chief election inspectors, provided that your organization's volunteers conduct themselves in a manner that does not disrupt or disturb the voting process. You indicated that voters may be handed the informational sheet on the way in to the polling place, outside of the 100 foot zone, but that the survey itself would not be shown to or handed to voters until they leave the polling place. You also assured our office that voters leaving the polling place would not be obstructed or harassed by persons conducting the poll.

Please note that Section 12.035, Wis. Stats. prohibits the distribution of election-related materials -- not only materials that might be considered electioneering -- at the polling place or within 100 feet of an entrance to the polling place. That was our primary concern with the original version of the exit poll. The Wisconsin Legislature has found that distributing election-related material at the polling place may mislead and confuse electors and tends to disrupt the flow of voting activities at the polling location. §12.035(2), Wis. Stats. Interacting with voters standing in line outside the entrance or those entering or exiting the building, when that interaction disturbs or distracts voters, or purports to be part of the actual voting process, would constitute a violation of this statutory prohibition.

As we discussed, Wisconsin law does not prohibit the conduct of exit polls when properly administered. Wisconsin's law regulating the conduct of persons on Election Day is designed to ensure that nothing interferes with the orderly conduct of the election and nothing distracts voters from exercising their right to vote at the polls on Election Day. §5.35(5), Wis. Stats. The Wisconsin Government Accountability Board, through its staff, has taken the position that exit polls may not be conducted within the building containing the polling place, and that persons conducting exit polls must not interfere with the access of voters entering and leaving the polling place.

We recommend that the persons conducting exit polls do so outside the entrance to the building containing the polling place. Exit pollsters should not block the entrance. We encourage the persons responsible for recruiting exit pollsters to contact the municipal clerk to discuss the conduct of exit polls, in order to take into consideration any unique circumstances created by the layout or configuration of a particular polling place. We expect both our election officials and the persons conducting the polls to be courteous and understanding of the respective rights of all participants in the voting process.

Wisconsin election officials are authorized to remove anyone from the polling place who interferes with or distracts voting at the election. §7.37(2), Wis. Stats. If any person refuses to obey the lawful commands of an election inspector or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, a law enforcement officer may remove them from the voting area.

Thank you for your inquiry. I hope this letter has been responsive to your concerns. Wisconsin election officials look forward to continued cooperation with your organization this election season. If you have additional questions, please contact our office.

Government Accountability Board

A handwritten signature in black ink that reads "Kevin J. Kennedy". The signature is written in a cursive style with a large, stylized initial "K".

Kevin J. Kennedy
Director and General Counsel