



Introduction

The Center for Election Confidence (CEC) submits these comments to the Wisconsin Election Commission (WEC) to highlight the critical role election observers play in securing and bolstering confidence in the electoral process and to ensure that the public's right of access envisioned in Wisconsin law is implemented effectively.

As WEC considers this effort to re-codify an expired Government Accountability Board emergency rule concerning the public's right to observation of Wisconsin elections, CEC encourages WEC to ensure that any new rule and associated guidance materials specifically include language confirming the minimum and maximum distance requirements in Wis. Stat. § 7.41(2) so that "any election observer[may] readily observe all public aspects of the voting process."

Wisconsin Election Law Provides for Specific Distance Requirements for Observation

Wis. Stat. § 7.41(2), sets specific minimum and maximum distance requirements for the location of election observation areas so that "any election observer[may] readily observe all public aspects of the voting process."

This requirement is further defined by explaining that observation areas "shall be not less than 3 feet from nor more than 8 feet from the table at which electors announce their name and address to be issued a voter number at the polling place, office, or alternate site[.]" Further, observation areas shall be "not less than 3 feet from nor more than 8 feet from the table at which a person may register to vote at the polling place, office, or alternate site."

Any Re-Codification of the Election Observer Rule Must Reference Access Requirements

Any re-codification by WEC of the election observer rule must reference the access requirements contained in Wis. Stat. § 7.41(2) to ensure that both members of the public acting as election observers and election officials are aware of the specific minimum and maximum distance requirements for the location of election observation areas.

A failure to include access requirements in a re-codification of the election observer rule may result in a misunderstanding of the applicability and enforceability of Wis. Stat. § 7.41(2), resulting in the placement of election observation areas outside of the specific minimum and maximum distance requirements. Such misunderstanding would violate the underlying purpose of § 7.41(2), that "[t]he observation areas shall be so positioned to permit any election observer to readily observe all public aspects of the voting process."

Conclusion

Wisconsin law provides for specific minimum and maximum distance requirements for the placement of election observation areas to ensure that members of the public acting as election observers are able "to readily observe all public aspects of the voting process." In order to alleviate any confusion or misunderstanding and to ensure that the public's right of access envisioned in § 7.41(2) is implemented effectively, CEC encourages WEC to ensure that any re-codification of the election observation rule specifically reference these distance requirements.

Respectfully submitted this 19th day of July, 2024,

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