

Chapter TCS 2

DISTRICT BOARD MEMBER APPOINTMENTS

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Note: Chapter A-V 2 was repealed and recreated by emergency rule effective February 16, 1983. Chapter A-V 2 as it existed on August 31, 1983 was repealed and a new chapter A-V 2 was created effective September 1, 1983; chapter A-V 2 was renumbered to be chapter VTAE 2, *Register*, September, 1985, No. 357, eff. 10-1-85; chapter VTAE 2 was renumbered chapter TCS 2 under s. 13.93 (2m) (b) 1., Stats., *Register*, June, 1994, No. 462.

TCS 2.01 Purpose. This chapter establishes criteria and procedures for the review of district board member appointments by the board as required under s. 38.04 (15), Stats., interprets the board's authority to require under s. 38.10 (2) (c), Stats., that district board appointments comply with the plan of representation and interprets s. 38.10 (2) (f) and (fm), Stats., requiring the board to formulate the plan of representation and appoint district board members upon the occurrence of certain specified circumstances.

History: Cr. *Register*, August, 1983, No. 332, eff. 9-1-83; reprinted to correct error, *Register*, November, 1983, No. 335; am. *Register*, April, 1990, No. 412, eff. 5-1-90.

TCS 2.02 Definitions. (1) "Appointment committee" means the appointment committee constituted under s. 38.10 (1) (a), (b), (c), or (d), Stats.

(2) "Board" means the technical college system board.

(3) With the exception of the district board governing the Milwaukee area technical college, "business and industry" includes every trade, occupation, and profession.

(4) "Employee" means any person who is not an employer as defined under sub. (5) and who receives earnings as payment for personal services, and includes a person acting in the capacity of officer or agent of a labor organization.

(5) Except as provided in sub. (5m), "employer" means any person who receives earnings as payment for personal services and possesses the power to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or adjust employee grievances, or effectively recommend such action, if in connection with the exercise of such power the person exercises independent judgment in relation to the power. Employer does not include a person acting in the capacity of officer or agent of a labor organization.

(5m) For the district board governing the Milwaukee area technical college, "employer" means a business entity, as defined in s. 13.62 (5), Stats., a nonprofit organization that provides health care services, credit union, or cooperative association.

(6) "District" means a technical college district.

(7) "District board" means the district board in charge of the technical colleges of a district.

(8) "Labor organization" means any organization of any kind, or affiliates of any such organization, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

(9) "Minority" means a person whose race or ethnic group is either:

(a) American Indian or Alaskan Native — a person with ori-

gins in any of the original people of North America, and who maintains cultural identification through tribal affiliation or community recognition;

(b) Asian or Pacific Islander — a person having origins in the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands;

(c) Black — a person not of Hispanic culture having origins in any of the Black racial groups of Africa; or

(d) Hispanic — a person of Mexican, Puerto Rican, Caribbean, Central or South American or other Spanish culture or origin, regardless of race.

History: Cr. *Register*, August, 1983, No. 332, eff. 9-1-83; renum. (3) to (6) to be (6), (7), (9) and (3), cr. (4), (5) and (8), *Register*, February, 1986, No. 362, eff. 3-1-86; correction in (2), (6) and (7), made under s. 13.93 (2m) (b) 6., Stats., *Register*, June, 1994, No. 462; CR 12-032: am. (1), (3), (5), cr. (5m) *Register* August 2013 No. 692, eff. 9-1-13.

TCS 2.03 District duties. If requested by the district board appointment committee, the district board shall provide any reasonable and necessary clerical services, support services and information.

History: Cr. *Register*, August, 1983, No. 332, eff. 9-1-83.

TCS 2.04 Board review of appointments. (1) Pursuant to s. 38.10 (2) (c), Stats., the board shall review district board appointments to determine whether they comply with the provisions of the plan of representation and the requirements of s. 38.08 (1) (a), Stats. Plans shall be in writing and need not conform to any technical requirements, but shall contain the information required under sub. (2).

(2) At a minimum, the plan of representation prepared by the appointment committee shall include:

(a) A map of the district, and if the district is divided into subunits for appointment purposes, the boundaries of these subunits shall be indicated on the map.

(b) A statement explaining the plan of representation and demonstrating how the plan of representation gives equal consideration to:

1. The general population distribution of the district.
2. The distribution of women within the district.
3. The distribution of minorities within the district.
4. The distribution of minorities within a city of the 1st class where a district encompasses a city of the 1st class.

(3) To enable the board to determine whether appointments made under the plan of representation are in compliance with the plan and s. 38.08 (1) (a), Stats., the following materials shall be submitted to the board by the appointment committee:

(a) An affidavit of each candidate for a position on the board indicating the candidate's:

1. Full legal name.
2. Home and business address.
3. Home and business telephone numbers.
4. Except as provided under subd. 4m., position sought as an

employer, employee, additional, elected official, or school district administrator member.

4m. For the district board governing the Milwaukee area technical college, position sought as a school district administrator, elected official, additional member, or member representing an employer. A person seeking appointment as an additional member shall indicate whether he or she is a school district administrator, elected official, or member representing an employer. Candidates seeking appointment as a member representing an employer must identify if the employer has 15 or more employees or 100 or more employees, and whether it is a manufacturing business.

6. Gender and status as a member of a minority as defined under s. TCS 2.02 (9).

7. Other qualifications that the candidate desires brought to the attention of the appointment committee.

(b) A written statement:

1. Explaining how the appointments implement the plan of representation, give equal consideration to the general population distribution and the distribution of women and minorities within the district, and, in districts encompassing a city of the 1st class, the distribution of minorities within the 1st class city, as required under sub. (2) (b).

2. Describing actions taken to recruit women and minority candidates for positions on the district board.

3. Explaining how the employer and employee members as appointed are representative of the various businesses and industries in the district as required under s. 38.08 (1) (a) 2., Stats., and sub. (4) (b).

4. Confirming that each person appointed had his or her name published in at least one notice of a public hearing or meeting of the appointment committee, provided at least 2 written references to the appointment committee, was interviewed by the appointment committee, and attended one public hearing at which his or her appointment was discussed by the appointment committee.

(4) In considering the approval or disapproval of any appointments made under the plan of representation, the board shall determine whether the appointments:

(a) Reasonably represent the general population distribution and the distribution of women and minorities within the district as set forth in the plan of representation.

(b) Reasonably represent the distribution of minorities in a 1st class city where the district encompasses a 1st class city.

(c) Except as provided in par. (e), reasonably represent the various businesses and industries in the district as required for employer and employee members of the district board.

(d) Except as provided in par. (e), result in a district board consisting of 9 members, including 2 employer members, 2 employee members, 3 additional members, a school district administrator as defined under s. 115.001 (8), Stats., and employed by a school board of a school district located in the district, and one elected official who holds a state or local office as defined in s. 5.02, Stats., except for the office of party committeeman or party committeewoman.

(e) For the Milwaukee area technical college district, result in a district board consisting of 9 members who are residents of the district, 7 of whom are residents of Milwaukee County, consisting of one school district administrator as defined under s. 115.001 (8), Stats., one elected official who holds a state or local

office, as defined in s. 5.02, Stats., 2 additional members, and 5 persons representing employers as defined in s. TCS 2.02 (5m). Three of the members shall represent employers with 15 or more employees, 2 of the members shall represent employers with 100 or more employees, and at least 2 of the members shall represent employers who are manufacturing businesses.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83; correction in (3) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1985, No. 357; am. (3) (b) 6., Register, September, 1985, No. 357, eff. 10-1-85; am. (3) (a) and (4) (c), r. (3) (b) 5., Register, February, 1986, No. 362, eff. 3-1-86; am. (1), (3) (intro.) and (b) 4. and (4) (d), Register, November, 1988, No. 395, eff. 12-1-88; am. (4) (intro.) and (b), Register, January, 1989, No. 397, eff. 2-1-89; r. (3) (a) and (c), (4) (d), renum. (3) (b), (4) (b) and (c) to be (3) (a), (4) (c) and (d) and am. (4) (d), cr. (2) (b) 4., (3) (b) and (4) (b), am. (3) (b) 4. and (4) (a), Register, April, 1990, No. 412, eff. 5-1-90; correction in (3) (a) 6., made under s. 13.93 (2m) (b) 7, Stats., Register, June, 1994, No. 462; CR 12-032; am. (3) (a) 4., cr. (3) (a) 4m., am. (3) (a) 6., (4) (c), (d), cr. (4) (e) Register August 2013 No. 692, eff. 9-1-13; correction in (4) (e) made under s. 13.92 (4) (b) 7., Stats., Register August 2013 No. 692.

TCS 2.05 Notification of board action. (1) Upon approval of the appointment committee's action appointing board members, the board shall send notice of approval to the chair of the appointment committee, the person appointed and the chair of the district board within 10 days of board action.

(2) Upon disapproval of the appointment committee's action in appointing board members, the board shall send notice of disapproval to the chair of the appointment committee, person recommended for appointment by the appointment committee and the chair of the district board within 10 days of board action. The notice shall request the appointment committee to hold its first meeting for reconsideration of the appointment action within 30 days of receipt of the notice. Any action of the appointment committee appointing a new district board member shall be resubmitted to the board for its review under s. TCS 2.04. The board shall make appointments to district boards only as permitted under s. TCS 2.06.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83; am. (2), Register, September, 1985, No. 357, eff. 10-1-85; am. (1), Register, April, 1990, No. 412, eff. 5-1-90; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1994, No. 462.

TCS 2.06 Appointments by the board. (1) The board shall make appointments to a district board if one of the following occurs:

(a) The appointment committee cannot reach agreement on the plan of representation or district board membership within 30 days after its first meeting to make appointments, or within 45 days following receipt of the board's notice of disapproval under s. TCS 2.05 (2).

(b) The appointment committee, after receiving the board's notice of disapproval under s. TCS 2.05 (2), makes appointments that are resubmitted for board review under s. TCS 2.04 and are again found by the board to be in noncompliance with the plan of representation or s. 38.08 (1) (a), Stats.

(2) If the board is required to make appointments the appointment committee shall forward to the board the most recent approved plan of representation, the affidavit of each applicant required under s. TCS 2.04 (3) (b), and, for appointment matters arising under sub. (1) (a), a statement explaining the reasons the appointment committee could not reach agreement.

(3) If there are insufficient candidates for a specific position on the district board, or if the board in its judgment determines that there are insufficient candidates to make an appointment, the board shall publish a notice in the district soliciting the submission of names and qualifications of candidates.

(4) Upon appointment of a candidate to a position on the district board, the board shall, in writing, notify the chair of the appointment committee, the candidate and the chair of the district board of the board's action.

History: Cr. Register, August, 1983, No. 332, eff. 9-1-83; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1985, No. 357; am. (1) and (2), Register, September, 1985, No. 357, eff. 10-1-85; r. and recr. (1) and (2), Register, November, 1988, No. 395, eff. 12-1-88; correction in (1) (a) and (b) and (2) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1994, No. 462.