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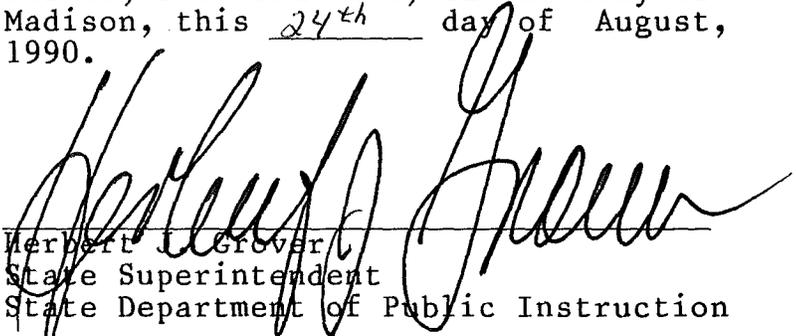
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF PUBLIC INSTRUCTION)

I, State Superintendent of the Department of Public Instruction and custodian of the official records of said department, do hereby certify that the annexed rule relating to school district boundary appeals, was duly approved and adopted by this Department on the first day of the month following publication in the Wisconsin Administrative Register.

I further certify that said copy has been compared by me with the original on file in this Department and the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I hereunto set my hand and affixed the official seal of the Department at General Executive Facility (GEF) 3, 125 South Webster Street, P.O. Box 7841, in the city of Madison, this 24th day of August, 1990.


Herbert J. Grover
State Superintendent
State Department of Public Instruction

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AMENDING RULES**

1 The state superintendent of public instruction hereby repeals and recreates
2 ch. PI 2, relating to school district boundary appeals.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: s. 227.11, (2) (a), Stats.

Statute interpreted: ss. 15.375 (2), 117.05(1) to (2) and (9), Stats.

This proposed repeal and recreation of ch. PI 2, relating to school district boundary appeals, follows the enactment of 1989 Wisconsin Act 114. Act 114 is a major revision of the procedures for school district reorganization, including procedures for handling school district boundary appeals. The proposed rules specify the state superintendent's responsibility following receipt of a notice of appeal or petition for review, including the basis for setting fees; describe the various materials which must be submitted to the boundary appeal board, and explain how the members to the appeal board will be chosen. The proposed rules specify that the fee will be set annually and will be based on the estimated expenses of the board or panel to hear one appeal in one day. The proposed rules further specify that, if the expenses are less than the total amount collected due to reviewing more than one appeal per day, the state superintendent may refund a portion of the difference.

Act 114 requires the state superintendent to appoint 12 school board members to serve on the school district boundary appeal board and that four members each shall be chosen from small, medium and large school districts. No 2 school board members of the SDBAB may reside within the boundaries of the same CESA. The proposed rules specify that small, medium and large school districts shall be determined by dividing the total number of school districts into thirds, grouped by enrollment. The proposed rules require each CESA which has an upcoming vacancy to nominate 3 school board members from at least 2 of the groups described above for the state superintendent's consideration. The rules were promulgated as emergency rules effective January 31, 1990 in order to appoint members and establish procedures for the boundary appeal board.

SECTION 1. Chapter PI 2 is repealed and recreated to read:

**CHAPTER PI 2
SCHOOL DISTRICT BOUNDARY APPEALS**

1 PI 2.01 PURPOSE. This chapter establishes procedures for school district
2 boundary appeals under ch. 117, Stats.

3 PI 2.02 DEFINITIONS. In this chapter:

4 (1) "Affected school district" has the meaning given in s. 117.03 (1), Stats.

5 (2) "Appeal panel" has the meaning given in s. 117.03 (2), Stats.

6 (3) "CESA" means a cooperative educational service agency created under ch. 116,
7 Stats.

8 (4) "Notice of appeal" means an appeal filed with the secretary of the SDBAB
9 under ss. 117.12 (4) or 117.13 (3), Stats.

10 (5) "Petition for review" includes any of the following actions:

11 (a) A school board directive for the holding of a referendum under s. 117.08 (3) (a)
12 1, Stats.

13 (b) Filing of a petition for a referendum under s. 117.08 (3) (a) 2, Stats.

14 (c) A school board request for SDBAB review under s. 117.09 (5) (c) or (d), Stats.

15 (d) A school board adoption of a resolution to dissolve the school district under s.
16 117.10 (2), Stats.

17 (e) A school board request for SDBAB review under s. 117.132 (4) (a) 1, Stats.

18 (f) Filing of a petition for SDBAB review under s. 117.132 (4) (a) 2, Stats.

19 (g) A request for SDBAB review under s. 121.78 (1) (c), Stats.

20 (6) "School board" has the meaning given in s. 115.001 (7).

21 (7) "School district boundary appeal board" or "SDBAB" means the school district
22 boundary appeal board appointed under s. 15.375 (2), Stats.

1 (8) "Reorganization" has the meaning given in s. 117.03(5), Stats.

2 (9) "State superintendent" means the state superintendent of public instruction or
3 his or her designee to the school district boundary appeal board under s. 15.375(2),
4 Stats.

5 **PI 2.03 STATE SUPERINTENDENT'S RESPONSIBILITY.** Upon receipt of a notice
6 of appeal or a petition for review, the state superintendent shall:

7 (1) Collect a filing fee as specified in s. 117.05 (9), Stats. Annually, the state
8 superintendent shall establish a filing fee sufficient to cover the expenses of convening
9 the school district boundary appeal board and the appeal panel, as follows:

10 (a) The fee for appeal to the SDBAB shall be based on the estimated cost of
11 convening the SDBAB for one day for one appeal. If, due to circumstances such as
12 more than one appeal being heard by the SDBAB in one day or annual revenues
13 exceeding annual expenditures, the state superintendent may refund a portion of the
14 fee prorated among the persons who paid the filing fee.

15 (b) The fee for appeal to the appeal panel under s. 117.12 (4), Stats., shall be based
16 on the estimated cost of convening the appeal panel for one day for one appeal. If,
17 due to circumstances such as more than one appeal being heard by the appeal panel in
18 one day or annual revenues exceeding annual expenditures, the state superintendent
19 may refund a portion of the fee prorated among the persons who paid the filing fee.

20 (2) Notify the clerk of the school board of each affected school district of receipt
21 of a notice of appeal.

22 (3) For an appeal filed under s. 117.12 (4), Stats., determine whether any of the
23 circumstances described under s. 117.12 (5), Stats., require review by the SDBAB
24 rather than by the appeal panel, and notify the clerk of the school board of any
25 affected school district whether the appeal will be heard by the SDBAB or the appeal
26 panel.

1 (4) Set a time and place for the SDBAB or appeal panel to meet, as follows:

2 (a) For a review under s.117.10 (4), Stats., following receipt of the certified
3 results of the referendum, as described in s. 117.20, Stats., and before the following
4 January 15.

5 (b) For review under s. 117.132(4), Stats., following receipt of the petition under s.
6 117.132(4)(a), Stats., and before the following January 15.

7 (c) Following receipt of a request for review under s. 117.09 (5) (c) or (d), Stats.

8 (d) For a review under ss. 117.12 (4) or (5) or 117.13 (3), Stats., after the March 15
9 following the school board denial of the detachment and attachment and before the
10 following June 15.

11 (e) Following receipt of a request for review under s. 121.78 (1)(c), Stats.

12 (5) Notify the clerk of the school board of each affected school district and the
13 person who filed the notice of appeal or petition for review of the time and place of
14 the SDBAB or appeal panel review.

15 **PI 2.04 SUBMISSION OF MATERIALS TO THE SCHOOL DISTRICT BOUNDARY**

16 **APPEAL BOARD.** (1) The clerk of the school board of an affected school district shall
17 submit the following materials to the secretary of the SDBAB:

18 (a) Any reorganization order filed as required under s. 117.17, Stats.

19 (b) Fees collected under s. 117.05 (9) (b), Stats.

20 (c) A certified copy of any resolution related to any reorganization proceeding
21 under ch. 117., Stats.

22 (d) The original or a certified copy of any petition or school district order for a
23 referendum under ss. 117.08 (3) (a), 117.09 (3)(a), 117.10 (3) (a) or 117.11 (4) (a), Stats.

24 (e) The original or a certified copy of a petition filed under s. 117.12 (2), Stats.

25 (f) A copy of the notice of any school board hearing on a petition or resolution for
26 reorganization; transcribed minutes, transcribed stenographic record, or transcribed

1 electronic record of hearing; and a correct copy of all exhibits and data submitted at
2 the hearing. If the hearing was a joint hearing, the clerk of the school board from
3 which territory is proposed to be detached shall submit the information.

4 (g) A copy of the notice for referendum and certified statement of the results of
5 the referendum, as specified in s. 117.20 (2), Stats.

6 (h) Any written statement of facts and other relevant matters relating to a
7 proposed reorganization.

8 (2) A person who files a petition under ss. 117.132 (4) (a) 1 or 121.78 (1) (c),
9 Stats., shall submit any written statement of facts and other relevant materials with
10 the petition for review by the SDBAB.

11 **PI 2.05 SCHOOL DISTRICT BOUNDARY APPEAL BOARD. (1) COMPOSITION**

12 **AND LENGTH OF TERMS.** (a) Section 15.375 (2), Stats., requires the state superin-
13 tendent of public instruction to appoint 12 school board members to serve on the
14 school district boundary appeal board. As further specified in s. 15.375 (2), Stats., 4
15 members of the SDBAB shall be school board members from small school districts, 4
16 members shall be school board members from medium school districts and 4 members
17 shall be school board members from large school districts. No 2 school board members
18 of the SDBAB may reside within the boundaries of the same CESA. One member of
19 the board shall be the state superintendent or the state superintendent's designee.

20 (b) Members of the SDBAB shall be appointed to staggered 2-year terms. Persons
21 who were regular and alternate members on January 1, 1990, shall be appointed regular
22 members to serve the remainder of their terms. By May 1, 1990, the state
23 superintendent shall appoint 4 new members, as specified in sub. (2), to bring
24 membership of the SDBAB into conformance with s. 15.375 (2), Stats. Two of these
25 members shall be appointed to terms which expire on May 1, 1991, and 2 shall be
26 appointed to terms which expire on May 1, 1992.

1 **(2) APPOINTMENT.** The state superintendent shall appoint members to the board
2 as follows:

3 (a) The total number of school districts shall be divided into thirds, grouped by
4 enrollment. The top third, by enrollment, shall be designated large school districts;
5 the middle third, by enrollment, shall be designated medium school districts; and the
6 bottom third, by enrollment, shall be designated small school districts. If the number
7 of districts is not evenly divisible by 3, the state superintendent shall determine, from
8 the enrollments, in which group the remaining districts should be included.

9 (b) The board of control of each CESA which will have a vacancy on the SDBAB on
10 the following May 1 shall nominate 3 school board members from at least 2 of the
11 groups described in par. (a) for the state superintendent's consideration.

12 (c) If the state superintendent determines that a size group has not been
13 adequately represented in nominations, either overall or from a specific CESA, the
14 state superintendent may request nominations of a specific size school district from
15 that CESA board of control.

16 (d) The state superintendent shall make appointments from the nominations under
17 pars. (b) and (c).

18 (e) If a member of the SDBAB is unable to complete his or her term, the
19 corresponding CESA board of control from which the vacancy came shall nominate 2
20 persons for the state superintendent to consider for appointment to serve the
21 remainder of the term. The nominees shall represent the same size school district as
22 the departing member.

23 **(3) SELECTION OF SDBAB MEMBERS FOR SDBAB REVIEW.** As specified in s.
24 117.05 (2), Stats., the state superintendent shall appoint 7 members of the SDBAB to
25 perform any review under ss. 117.10 (4), 117.12 (5) and 117.132, Stats. One member
26 shall be the state superintendent or the state superintendent's designee. Two

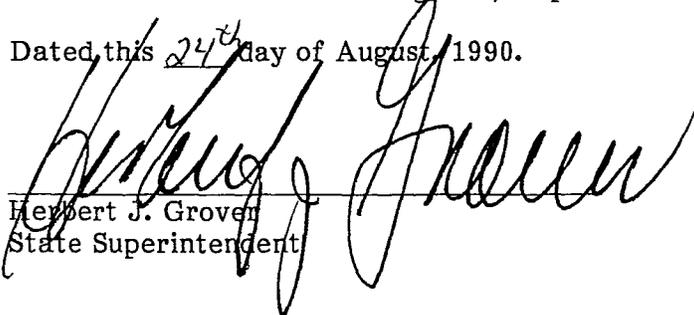
1 members each shall represent small, medium and large school districts. No member
2 may participate in any review involving a school district in which the member resides
3 or in which the member serves on or is employed by the school board, or in which the
4 member may have any other conflict of interest.

5 **(4) SELECTION OF SDBAB MEMBERS FOR APPEAL PANEL REVIEW.** As speci-
6 fied in s. 117.05 (1), Stats., the state superintendent shall appoint 3 members of the
7 SDBAB to perform any review under ss. 117.12 (4) and 117.13 (3), Stats. One member
8 each shall represent a small, medium and large school district. The state superinten-
9 dent shall also appoint a non-voting chair and secretary to assist the panel. No SDBAB
10 member may participate in any review involving a school district in which the member
11 resides or in which the member is on or employed by the school board, or in which the
12 member may have any other conflict of interest.

13 **PI 2.06 INITIAL APPLICABILITY.** This chapter applies to all petitions or resolu-
14 tions for reorganization filed on or after January 1, 1990, the effective date of 1989
15 Wisconsin Act 114.

The rules contained in this order shall take effect upon publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this 24th day of August, 1990.


Herbert J. Grover
State Superintendent