

CR 89-174

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CERTIFICATE

STATE OF WISCONSIN)
BOARD OF VOCATIONAL, TECHNICAL AND ADULT EDUCATION) ss.

I, Dwight A. York, State Director of the Board of Vocational, Technical and Adult Education and custodian of the official records, certify that the annexed rules, Clearinghouse Rule 89-174 relating to the district board member appointments, were duly approved by this Board on January 31, 1990.

I further certify that this copy has been compared by me with the original on file in this Board and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Board at 310 Price Place, in the city of Madison, this 14th day of March 1990.

Dwight A. York

Dwight A. York
State Director



5-1-90

ORDER OF THE
WISCONSIN BOARD OF VOCATIONAL,
TECHNICAL AND ADULT EDUCATION
REPEALING, RENUMBERING, AMENDING, AND CREATING
RULES RELATING TO DISTRICT BOARD MEMBER APPOINTMENTS
(Clearinghouse Rule 89-174)

1 The Wisconsin Board of Vocational, Technical and Adult Education
2 proposes an order to repeal VTAE 2.04(3)(a) and (c) and VTAE 2.04(4)(d); to
3 renumber VTAE 2.04(3)(b) and 2.04(4)(b); to amend VTAE 2.01, 2.04(3)(b)4,
4 2.04(4)(a), 2.04(4)(c) and 2.05(1); to renumber and amend VTAE 2.04(4)(c); and
5 to create VTAE 2.04(2)(b)4, 2.04(3)(b), and 2.04(4)(b), relating to district
6 board member appointments.

ANALYSIS BY THE WISCONSIN BOARD OF VOCATIONAL, TECHNICAL AND ADULT EDUCATION

Statutory authority: ss. 38.04(15) and 227.11(2)(a), Stats.

Statute interpreted: ss. 38.08(1)(a)1 and 2, 38.08(1g), 38.10(2)(c)
and 38.10(2)(f) and (fm), Stats.

1989 Wisconsin Act 31, sections 717m, 718g, 718r, 719g, and 719r, affected various provisions of the vocational, technical and adult education district board appointment process under ss. 38.08 and 38.10, Stats. The purpose of this rule is to bring current rules governing the Board's district board appointment oversight responsibilities into compliance with these changes. Additionally, various technical changes are made to make terminology used in the rule consistent with terminology used in the statutes.

SECTION 1. VTAE 2.01 is amended to add a reference to s. 38.10(2)(fm), Stats., as an additional circumstance under which the board can proceed to appoint district board members. Previous amendments to VTAE 2.06 noted the Board's authority to make appointments in place of the local appointment committee in accord with s. 38.10(2)(fm), where appointments were disapproved by the Board, resubmitted to the local appointment committee, resubmitted to the Board, and disapproved a second time.

SECTION 2. VTAE 2.04(2)(b)4 is created to require, for districts encompassing a city of the 1st class, that the statement explaining the plan of representation indicate how that plan gives equal consideration to the

distribution of minorities within the 1st class city. This requirement, applicable only to districts encompassing a city of the 1st class, is an additional requirement and does not relieve the appointment committee of a district encompassing a 1st class city from complying with existing subparagraphs 1 through 3 which require a statement explaining how the plan gives equal consideration to the general population distribution, the distribution of women and the distribution of minorities within the district.

SECTION 3. VTAE 2.04(3)(a) and (c) relating to statements required to be submitted to the Board by the appointment committee are repealed. These required statements are included and consolidated with other required statements in a newly created VTAE 2.04(3)(b) established in SECTION 6.

SECTION 4. VTAE 2.04(3)(b)4 is amended to refer to additional members rather than at-large members thereby bringing the rule into accord with the statutes. Additionally, reference to the new elected official member as created by 1989 Wisconsin Act 31 is included. Finally, a requirement is imposed that additional member candidates indicate if they are an employer, employe, school district administrator or elected official for purposes of determining whether or not the number of additional members who are employes, employers, school district administrators or elected officials exceeds those permitted under s. 38.08(1)(a)2, Stats., as amended by 1989 Wisconsin Act 31.

SECTION 5. VTAE 2.04(3)(b) is renumbered VTAE 2.04(3)(a).

SECTION 6. A new VTAE 2.04(3)(b) is created which combines former VTAE 2.04(3)(a) and (c) concerning the statement required to be filed with the Board by the local appointment committee to assist the Board in reviewing district board appointments as made. Also required is a statement that each person appointed has had his or her name published in at least one notice of public hearing or meeting of the local appointment committee, provided at least 2 written references, was interviewed by the appointment committee, and attended the public hearing at which his or her appointment was discussed. This ensures compliance with the amendment to s. 38.10(2)(d)3, Stats., as made by 1989 Wisconsin Act 31. Finally, appointment committees for districts that encompass a city of the 1st class must include within the statement an explanation of how the appointments give equal consideration to the distribution of minorities within that 1st class city as required by s. 38.08(1g) as created by 1989 Wisconsin Act 31.

SECTION 7. VTAE 2.04(4)(a) is amended to clarify that this section pertains to an examination of whether or not the appointments as made reasonably represent the general population distribution and the distribution of women and minorities within the district.

SECTION 8. VTAE 2.04(4)(d), is repealed.

SECTION 9. VTAE 2.04(4)(b) and (c) have been renumbered VTAE 2.04(4)(c) and (d) to accommodate the placement of a new provision applicable to districts encompassing a city of the 1st class within its boundaries.

VTAE 2.04(4)(c), renumbered to (d), is amended to change the term at-large to additional member, to change the number of employer, employe and additional members to conform with current statute, and to recognize the creation of a separate elected official position on district boards. Additionally, the requirement of former VTAE 2.04(4)(d), as it existed prior to repeal, prohibiting more than one member of a governmental unit from serving on a district board, is added to this section.

SECTION 10. VTAE 2.04(4)(b) is created to require the Board to determine whether or not the appointment of minorities, in a district encompassing a 1st class city, reasonably represents the distribution of the minority population in that 1st class city.

SECTION 11. VTAE 2.05(1) is amended to remove brackets around the word shall and the word the is added prior to person to provide parallel grammatical structure.

1 **SECTION 1.** VTAE 2.01 is amended to read:

2 VTAE 2.01 Purpose. This chapter establishes criteria and procedures for
3 the review of district board member appointments by the board as required
4 under s. 38.04(15), Stats., interprets the board's authority to require under
5 s. 38.10(2)(c), Stats., that district board appointments comply with the plan
6 of representation and interprets s. 38.10(2)(f) and (fm), Stats., requiring
7 the board to formulate the plan of representation and appoint district board
8 members ~~where the appointment committee cannot reach agreement within 30 days~~
9 ~~of their first meeting~~ upon the occurrence of certain specified circumstances.

10 **SECTION 2.** VTAE 2.04(2)(b)4 is created to read:

11 VTAE 2.04(2)(b)4. The distribution of minorities within a city of the
12 1st class where a district encompasses a city of the 1st class.

13 **SECTION 3.** VTAE 2.04(3)(a) and (c) are repealed.

14 **SECTION 4.** VTAE 2.04(3)(b)4 is amended to read:

15 VTAE 2.04(3)(b)4. Position sought as an employer, employe, ~~at-large~~
16 additional, elected official or school district administrator member and

1 ~~whether the candidate is an elected official for purposes of meeting the~~
2 ~~requirements under s. 38.08(1)a)2, Stats.~~ A candidate may seek appointment to
3 any position for which the person qualifies. A person seeking appointment as
4 an additional member shall indicate whether he or she is an employer, employe,
5 school district administrator or elected official.

6 SECTION 5. VTAE 2.04(3)(b) is renumbered VTAE 2.04(3)(a).

7 SECTION 6. VTAE 2.04(3)(b) is created to read:

8 VTAE 2.04(3)(b). A written statement:

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

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

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

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

1 SECTION 7. VTAE 2.04(4)(a) is amended to read:

2 VTAE 2.04(4)(a). Reasonably represent the general population
3 distribution and the distribution of women and minorities within the district
4 as set forth in the plan of representation.

5 SECTION 8. VTAE 2.04(4)(d) is repealed.

6 SECTION 9. VTAE 2.04(4)(b) and (c) are renumbered VTAE 2.04(4)(c)
7 and (d) respectively, and (d) as renumbered is amended to read:

8 VTAE 2.04(4)(d). Result in a district board consisting of 9 members,
9 including ~~3~~ 2 employer members, ~~3~~ 2 employe members, ~~2~~ 3 ~~at-large~~ additional
10 members ~~and~~, a school district administrator as defined under s. 115.001(8),
11 Stats., ~~and~~ employed by ~~the~~ a school board of a school district located in the
12 district, and one elected official who holds a state or local office, as
13 defined in s. 5.02, Stats., except for the office of party committeeman or
14 party committeewoman. Of the 3 additional members, no more than 2 may be
15 employers, no more than 2 may be employes, no more than 3 may be school
16 district administrators and no more than 3 may be elected officials. No 2
17 members of the district board may be officials of the same governmental unit
18 nor may any district board member be a member of the school board that employs
19 the school district administrator member.

20 SECTION 10. VTAE 2.04(4)(b) is created to read:

21 VTAE 2.04(4)(b). Reasonably represent the distribution of minorities in
22 a 1st class city where the district encompasses a 1st class city.

1 SECTION 11. VTAE 2.05(1) is amended to read:
2 VTAE 2.05(1). Upon approval of the appointment committee's action
3 appointing board members, the board [shall] send notice of approval to the
4 chair of the appointment committee, the person appointed and the chair of the
5 district board within 10 days of board action.

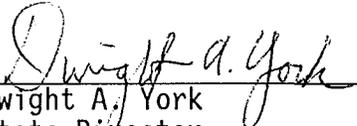
The amendments contained in this order shall take affect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Dated this 31st day of January, 1990

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WISCONSIN BOARD OF VOCATIONAL,
TECHNICAL AND ADULT EDUCATION



Dwight A. York
State Director

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Dwight A. York
State Director

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MAR 14 1990

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Bureau

March 14, 1990

Mr. Bruce Munson
Revisor of Statutes
30 West Mifflin Street, Suite 702
Madison, WI 53702

Dear Mr. Munson:

Enclosed for filing and publication is a certified copy of an Order of the Board of Vocational, Technical and Adult Education (Clearinghouse Rule 89-174) amending Chapter VTAE 2, Wis. Admin. Code, relating to district board member appointments. Also enclosed is an additional copy of the Order for use as printer's copy.

Should you have any questions, please do not hesitate to contact me at 266-8171.

Sincerely,

Edward S. Alschuler
General Counsel

ESA:RMJ

Enclosures

cc: Dwight A. York, Wisconsin Board of VTAE
Edward Chin, Wisconsin Board of VTAE
Glenn A. Davison, Wisconsin Board of VTAE