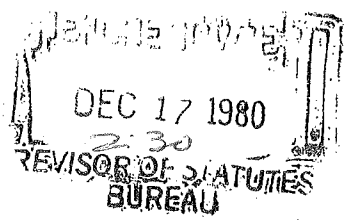


A-V4

CERTIFICATE



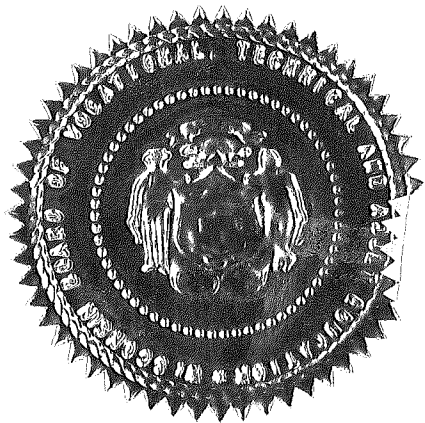
STATE OF WISCONSIN)
Board of Vocational, Technical and) SS
Adult Education)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert P. Sorensen, Director of the Wisconsin Board of Vocational, Technical and Adult Education and custodian of the official records of said board do hereby certify that the annexed rules relating to Administrative Hearing Procedures, were duly approved and adopted by this board on August 21, 1980.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the agency at Hill Farms State Office Building in the city of Madison, this 17 day of December, 1980.



Robert P. Sorensen
Robert P. Sorensen, Ph.D.
State Director

3-1-81

ORDER OF THE WISCONSIN
BOARD OF VOCATIONAL, TECHNICAL
AND ADULT EDUCATION ADOPTING
RULES

Relating to rules concerning Administrative Hearing Procedures.
Analysis prepared by the Wisconsin Board of Vocational, Technical
and Adult Education.

Chapter A-V 4 of the Wisconsin Administrative Code is being proposed by the Board to ensure that all participants in hearings conducted by the Board will be guaranteed their right to due process and equal protection under the law. The provisions of Chapter 227, Stats., have served as a basis for the procedural provisions that are proposed.

The rules provide definitions of specific terms used therein, general information, such as the address of the Board, office hours and method of communication with the Board, the location of hearings and how parties will be denominated according to the nature of the proceeding. Information concerning the form of documents and pleadings is also provided.

Proceedings before the Board will generally be instituted by a petition for review except in the case of district budget limitation appeals which will be commenced by an application. In addition to providing information as to the contents of the petition for review and application, the rules provide for the contents of the notice of hearing.

The rules further provide the procedures to be used in conduct of hearings. Included are the powers of the hearings examiner, method of appearance by the parties, order of presenting evidence, rules of evidence for the hearing, the procedure in case of default by a party, use of subpoenas, the method to be used in recording the hearing and the use of stipulations, motions, oral statements and briefs. The rules also set forth the procedure to be used in rendering a decision and for petitioning for a rehearing.

Pursuant to authority vested in the Wisconsin Board of Vocational, Technical and Adult Education by section 227.014, Wis. Stats., the Wisconsin Board of Vocational, Technical and Adult Education hereby adopts rules governing hearings conducted by the Agency as follows:

1 Chapter A-V 4 of the Wisconsin Administrative Code is created to read

2

3

Chapter A-V 4

4

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Administrative Hearing Procedures

6

7

A-V 4.01 Definitions (1) "Board" means the state board of vocational, technical and adult education.

8

9

10

(2) "Certificate" means approval status, emergency approval status, provisional certificates and five year certificates as used in Chapter A-V 3, Wis. Admin. Code.

1 (3) "Code" means the Wisconsin Administrative Code.

2 (4) "District" means vocational, technical and adult educa-
3 tion district.

4 (5) "Hearings" means both hearings and rehearings and this
5 chapter shall cover both so far as applicable, except where other-
6 wise specifically provided for by statute or this chapter.

7 (6) "State Director" includes the designee of the state
8 director whenever detailed by the state director or discharging
9 the duties and exercising the powers of the state director on
10 appeals and hearings during his or her absence.

11 (7) "Statutes" means the Wisconsin Statutes.

12

13 A-V 4.02 Communications and Documents Address to the Board
14 (1) All written communications and documents, submitted pursuant
15 to this chapter, should be addressed to the State Director, State
16 Board of Vocational, Technical and Adult Education, Hill Farms
17 State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin
18 53702, and not to individual members of the staff. All documents
19 and communications delivered at the office of the state director
20 are officially received.

21 (2) The state director may designate agents to receive writ-
22 ten communications and documents. Hearing examiners will receive
23 communications and documents at hearings.

24 (3) Office hours are those listed in s. 230.35 (4)(f),
25 Stats. Offices are closed on Saturdays and Sundays and on

26

1 holidays listed in s. 230.35(4)(a), Stats.

2

3 A-V 4.03 Location of Hearing. Unless otherwise ordered in
4 the notice of hearing or specifically provided by law, all
5 hearings shall be held at the office of the board in the Hill
6 Farms State Office Building, 4802 Sheboygan Avenue, Madison,
7 Wisconsin 53702.

8

9 A-V 4.04 Parties. Parties to proceedings are known as
10 petitioners, respondents, intervenors, applicants, and
11 objectors, according to the nature of the proceeding and rela-
12 tionship of the parties to the proceedings.

13 (1) Parties seeking relief from district budget limitations
14 are applicants, those opposing such applicants are objectors and
15 those other than applicants or objectors are intervenors.

16 (2) Parties filing petitions for review are petitioners,
17 those opposing such petitioners are respondents.

18

19 A-V 4.05 Service of Papers and Documents. (1) Manner of
20 Service. Except as otherwise specifically required, service of
21 documents required to be served may be made by personal delivery
22 or by mailing a copy to the last known post office address of the
23 person to be served, in a sealed envelope with first class
24 postage affixed, and shall be deemed to have been served upon
25 deposit in the U.S. mails.

26 (2) Date of Service. The date of service shall be either

1 the day when the document served is deposited in the mail or is
2 delivered in person.

3

4 A-V 4.06 Form and Style of Pleadings. All pleadings,
5 notices, orders and other papers filed in connection with any
6 matter or proceeding before the board shall be captioned "STATE
7 OF WISCONSIN, BOARD OF VOCATIONAL, TECHNICAL AND ADULT EDUCATION"
8 and entitled "In the Matter of _____

9 (here state the nature of the proceeding) of _____

10 _____ (here state the name of the aggrieved
11 party). All papers filed at or in reference to any hearing shall
12 be either printed or typewritten and, except such parts
13 as may be an official forms or other forms or documents in regu-
14 lar use in matters pertaining to vocational education, all
15 pleadings, notices, exhibits, papers and documents filed or pre-
16 sented at any hearings shall be on paper not more than 8 1/2
17 inches wide and 11 inches long. The original shall be filed with
18 the board or the hearing examiner conducting the hearing, and a
19 copy thereof shall be furnished to each party or person interested
20 who enters an appearance in the proceedings. The original of such
21 paper (except exhibits offered as evidence) shall be dated and
22 signed with the handwritten signature of the party, or of an
23 officer, agent, employee, or attorney appearing for or with the
24 party in the proceeding, and the name and mailing address of the
25 party or of the representative appearing and signing the same
26 shall be printed or typed immediately following the written

1 signature.

2

3 A-V 4.07 How Proceedings Instituted. Proceedings for a
4 hearing upon a matter shall be initiated as follows:

5 (1) On a petition for review by an aggrieved individual or
6 vocational, technical and adult education district.

7 (2) On an application by any vocational, technical and
8 adult education district for relief from district budget
9 limitations.

10

11 A-V 4.08 Contents of Petition for Review. A petition for
12 review shall be in writing and shall contain:

13 (1) The name, place of residence and post office address of
14 the petitioner.

15 (2) A concise statement of the grounds for the petition.

16 (3) A concise statement of the relief requested.

17 (4) A signature of the petitioner or duly authorized agent.

18

19 A-V 4.09 Contents of Application. An application for relief
20 from budget limitations shall contain:

21 (1) The name, and post office address of the applicant.

22 (2) The information required under Section A-V 6.03(3) Wis.
23 Adm. Code.

24 (3) A signature of the district director or duly authorized
25 agent.

26

1 A-V 4.10 Notice of Hearing. (1) Form. Notice of hearing
2 be in writing, with a title identifying the matter to be set for
3 hearing.

4 (2) Content. The notice of hearing shall contain the
5 following information:

6 (a) Date, time and location of hearing;

7 (b) The reason for the hearing;

8 (c) A short summary of the matter to be considered;

9 (d) Any other information as the board may deem
10 appropriate.

11

12 A-V 4.11 Prehearing Conferences. Prehearing conferences may
13 be held at the convenience of the parties and shall be conducted
14 by the hearing examiner designated pursuant to Section A-V 4.12,
15 Wis. Adm. Code, who shall keep a record of any agreement as to
16 the issues, or stipulation or admission of fact which may be made
17 at such conference or conferences. Such record shall be attached
18 to the file in memorandum form and constitute a part of the offi-
19 cial record of the proceeding.

20

21 A-V 4.12 Conduct of Hearings. (1) Hearing Examiner. Unless
22 otherwise ordered by the board, all hearings shall be conducted on
23 behalf of the board by a hearing examiner designated by the State
24 Director, who shall, in addition to any powers contained in this
25 chapter, have all powers of a hearing examiner permitted by
26 Chapter 227, Stats.

1 (2) Procedure. The hearing examiner will open the hearing
2 and make a concise statement of its scope and purposes. If the
3 matter is contested, the hearing examiner will state the issues
4 in the proceedings. Thereafter, parties may make motions or
5 opening statements.

6 (3) Opening Statements. When opening statements are made
7 they shall be confined to:

8 (a) A brief summary or outline in clear and concise form of
9 the evidence to be offered; and

10 (b) A statement of ultimate legal points relied upon.

11 (4) Off Record. Parties may be off the record only when
12 the hearing examiner permits. If a discussion off the record is
13 deemed pertinent by the hearing examiner, the hearing examiner
14 may summarize it on the record.

15

16 A-V 4.13 Appearances. (1) Parties may appear in person or
17 by a regularly employed employee or agent, or by a duly authorized
18 attorney at law, and if a corporation by any of its active
19 officers. Upon an appearance at a hearing the name and mail
20 address of the party appearing and the name and mail address of
21 any agent, employee, officer or attorney appearing with or for the
22 party shall be furnished and entered in the record of the
23 proceedings, and the appearances so made and the mail addresses
24 so given shall be binding on the party unless and except as
25 modified by written notice to the state director or the hearing
26 examiner conducting the hearing and to all other parties

1 appearing in the proceeding and served as provided by Section A-V
2 4.05 Wis. Adm. Code, which when so modified shall in turn have
3 the same force and effect as in the first instance.

4 (2) Members of the state board's staff appearing in budget
5 limitations hearings are neither in support of nor in opposition
6 to the cause, but solely to discover and present, if necessary,
7 facts pertinent to the issues.

8

9 A-V 4.14 Order of Presenting Evidence. Evidence ordinarily
10 will be presented in the following order:

11 (1) Upon applications for relief from district budget
12 limitations: (a) The applicant, (b) intervenors in support of
13 the applicant, (c) objector, (d) intervenors in support of the
14 objector, and (e) state board staff.

15 (2) Upon petitions: (a) petitioner and supporting
16 witnesses and (b) respondent and supporting witnesses.

17

18 A-V 4.15 Evidence and Official Notice. Rules of evidence
19 are governed by s. 227.08, Stats.

20

21 A-V 4.16 Defaults. If a party who has received notice of a
22 hearing fails to appear at the hearing, the hearing examiner may
23 proceed with the hearing and, on the evidence presented, may make
24 a decision and issue an order.

25

26 A-V 4.17 Subpoeas and Witnesses.

1 The hearing examiner designated to conduct the hearing may sign
2 and issue subpoenas for the attendance of witnesses or parties at
3 hearings.

4
5 A-V 4.18 Record of Hearings. (1) Method. Hearings will be
6 recorded either stenographically or mechanically, and the
7 transcript together with all exhibits, shall be a part of the
8 official record of such proceeding. A typed transcript will be
9 made when deemed necessary by the board. If a transcript is
10 made by the board, copies will be furnished to all persons upon
11 request at a reasonable cost. If no transcript is deemed
12 necessary by the board and a party requests that one be prepared,
13 that party shall be responsible for all costs of transcript
14 preparation. In lieu of a transcript the board will provide any
15 person a copy of the tape recording of the hearing if mechanically
16 recorded upon request and at a reasonable cost. All requests
17 pursuant to the foregoing shall be made in writing and presented
18 to the hearing examiner at the hearing.

19 (2) Financial Need. Any party who by affidavit or other
20 appropriate means can establish to the board's satisfaction that
21 the party is impecunious may be provided a copy of the transcript
22 or a copy of the tape recording without charge.

23 (3) Errors in Record. Any party, within 7 days of the date
25 of mailing of the transcript, may file with the board a notice in
26 writing of any claimed error in the record and shall mail a copy

1 of the notice to each party of record. All parties will be
2 advised by the board of any authorized corrections to the record.

3

4 A-V 4.19 Stipulations. All stipulations or agreements in
5 reference to a matter that is the subject of a hearing shall be
6 either dictated at length into the record, or reduced to writing,
7 shall be signed by the persons or parties stipulating, and filed
8 as a part of the record of the proceedings. Controversies, or
9 matters which may be the subject of a hearing, may be disposed of
10 by stipulation, agreed settlement, or consent orders.

11

12 A-V 4.20 Motions. (1) Procedure. Unless made during a
13 hearing or prehearing conference, all motions shall be made in
14 writing, shall state with particularity the grounds for the
15 motion and the relief or order sought. A notice of motion is not
16 required, notice being satisfied by service of the copy of the
17 motion.

18 (2) Supporting Papers. A brief or other papers in support
19 of a motion including affidavits and documentary evidence,
20 shall be served and filed with the motion.

21

22 A-V 4.21 Oral Statements and Arguments. Parties may make
23 opening statements after appearances have been entered, and any
24 party to the proceeding may make closing argument at the close of
25 the hearing, which shall not be included in the stenographic or
26 mechanical report of the hearing, unless the presiding officer so

1 directs. The hearing examiner may in his or her discretion, limit
2 the amount of time for opening statement or closing arguments.

3

4 A-V 4.22 Briefs. The hearing examiner at the hearing shall
5 indicate whether or not briefs are desired and may impose a
6 briefing schedule. If the time for filing briefs has expired and
7 the brief of one or more of the parties has not been filed within
8 the prescribed time, the board may proceed to its determination
9 of the matter. Extension of time to file briefs may be granted
10 by the hearing examiner upon good cause shown.

11

12 A-V 4.23 Decisions. Where a proposed decision is prepared
13 and circulated pursuant to s. 227.09 (2) or (4), Stats., objec-
14 tions thereto shall be filed within 15 days of service unless a
15 different period is specified by the hearing examiner or board.
16 Objections and briefs shall be filed together and served on all
17 parties.

18

19 A-V 4.24 Petition for Rehearing. The board shall not grant
20 a rehearing except upon formal petition being filed with the
21 board within 20 days after service of the final order and
22 decision. Rehearing will be granted only on the basis of some
23 material error of law or fact, or new evidence sufficiently
24 strong to reverse or modify the order, and which could not have
25 been previously discovered by due diligence. The board may order
26 a rehearing or enter an order with reference to the petition

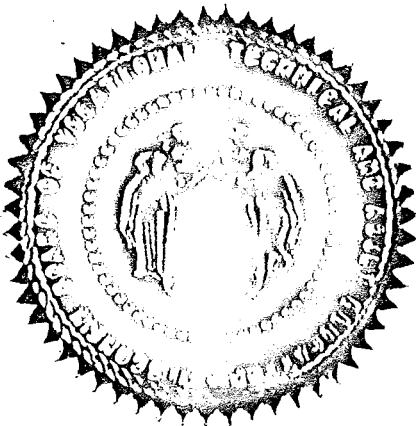
1 without a hearing, and shall dispose of the petition within 20
2 days after it is filed. If the board does not enter an order
3 disposing of the petition within the 20 day period, the petition
4 shall be deemed to have been denied as of the expiration of the
5 20 day period.

6

7 A-V 4.25 Notice and Explanation Upon Denial of Certification
8 to Educational Personnel. Upon denial of an application for
9 certification pursuant to Chapter A-V 3, Wis. Adm. Code, the
10 board shall notify the applicant and candidate in writing. Both
11 the applicant and candidate shall have a right to a hearing upon
12 denial if a written petition for review is filed with the board
13 within 30 days of the decision. The board shall make available
14 to the applicant or candidate all materials in its possession
15 which were used in reaching the decision to deny a certificate.
16 The burden of proving certifiability pursuant to Chapter A-V 3,
17 Wis. Admin. Code will remain on the applicant.

The rules contained in this order shall take effect as provided in
s. 227.026 (1)(intro.) Stats.

Dated December 17, 1980.



Wisconsin Board of Vocational,
Technical and Adult Education

Robert P. Sorensen

Robert P. Sorensen

State Director



State of Wisconsin \

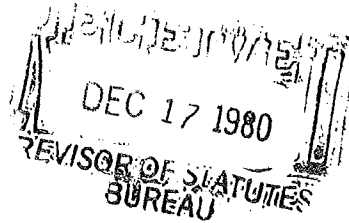
BOARD OF VOCATIONAL, TECHNICAL & ADULT EDUCATION

ROBERT P. SORENSEN, Ph.D.

State Director
4802 Sheboygan Avenue, 7th Floor
MADISON, WISCONSIN 53702

December 17, 1980

Mr. Orlan L. Prestegard
Revisor of Statutes
State Capitol, Room 411 W
Madison, WI 53702



Dear Mr. Prestegard:

Enclosed for further processing as Administrative Code, is Chapter A-V 4, Administrative Hearing Procedures, Wisconsin Administrative Code, adopted by this Board on August 21, 1980. This rule has passed through both standing committees of the Legislature.

As per your requirement, we have included a certified copy and one additional copy for your use.

Please do not hesitate to contact me if any further information is needed.

Sincerely,

Edward S. Alschuler
Legal Counsel

ESA:rmg

Enclosure