

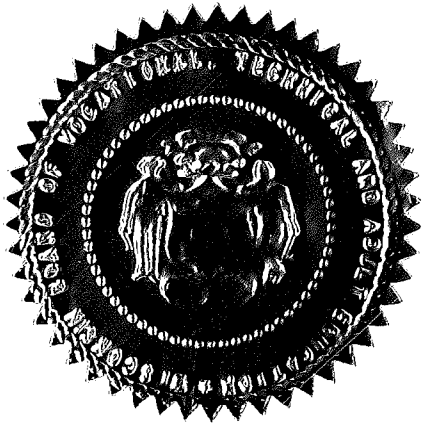
CR 90-94

CERTIFICATE

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

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 90-94 relating to residency, admissions and fee refunds, were duly approved by this Board on August 29, 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 10th day of October, 1990.

Dwight A. York
State Director

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**ORDER OF THE
WISCONSIN BOARD OF VOCATIONAL,
TECHNICAL AND ADULT EDUCATION
REPEALING, RENUMBERING, AMENDING AND CREATING
RULES RELATING TO RESIDENCY, ADMISSIONS AND FEE REFUNDS
(Clearinghouse Rule 90-94)**

1 The Wisconsin Board of Vocational, Technical and Adult Education proposes
2 an order to repeal VTAE 10.02(7), 10.03(4), 10.04(6), 10.05(1)(c) and 2(c) and
3 (d), 10.055, and 10.08; to renumber VTAE 10.02(6), 10.03(5) and (6),
4 10.05(1)(d) and (2)(e), and 10.09; to amend VTAE 10.01, 10.02(3) and (10),
5 10.04(title), (1) and (2) and 10.05(2)(e); to repeal and recreate
6 VTAE 10.04(4), 10.04(5), 10.06 and 10.07; and to create 10.02(6), relating to
7 residency, admissions and fee refunds.

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

Statutory Authority: ss. 38.22(5) and 227.11(2)(a), Stats.

Statutes Interpreted: ss. 38.22(4) and (5), 38.24(2), and 38.28(6), Stats.

1989 Wisconsin Act 336 repealed various sections of the statutes relating to non-district state resident tuition, the reservation of places for non-district state residents in programs not offered statewide, hardship enrollments and jointly offered programs, and created provisions requiring the Board to promulgate rules establishing the priority to be given to district residents, non-district state residents and non-residents. Additionally, Act 336 established an appropriation to reimburse districts for some of the costs associated with the enrollment of non-district state residents where the number of non-district state residents enrolling exceeds the number of district residents enrolling in other districts. This order brings existing administrative rule into compliance with these statutory changes.

SECTION 1. VTAE 10.01 relating to the purpose and application of the rule is amended to reflect the changes as embodied in Act 336.

SECTION 2. The definition of "director" in VTAE 10.02(3) is amended to make a technical change to the grammatical structure.

SECTION 3. With the repeal of interdistrict tuition the definition of interdistrict tuition is repealed.

SECTION 4. To accommodate the creation of a definition for "district resident" in Section 5 and to preserve the alphabetical order, VTAE 10.02(6) is renumbered VTAE 10.02(7).

SECTION 5. Both the prior administrative rule and the amendments proposed by this order use the term "district resident." No definition for "district resident" exists in the current code. To avoid the potential for confusion and the need for future interpretations a definition of "district resident" has been established as VTAE 10.02(6).

SECTION 6. Since both out-of-state residents and residents of the state who do not reside in a district of attendance could be considered non-district residents, the phrase non-district resident currently defined in VTAE 10.02(10), as "a person whose permanent residence is outside the district, but inside the state," has been amended to read "non-district state resident." The term has been changed throughout the rule.

SECTION 7. With the repeal of interdistrict tuition, and given the current practice that all educational programs for prison inmates are provided through contracts with the Board under s. 38.04(12, Stats., or districts under s. 38.14(3)(a), Stats., there is no need for this provision determining the residence of incarcerated or involuntarily detained individuals. Therefore, VTAE 10.03(4) has been repealed.

SECTION 8. To accommodate the repeal of VTAE 10.03(4), VTAE 10.03(5) and (6) have been renumbered VTAE 10.03(4) and (5), respectively.

SECTION 9. VTAE 10.04(title), (1) and (2) have been amended to reflect the fact that district residency determinations are now necessary to determine supplemental aid payments under s. 38.28(6), Stats., and admission priorities rather than liability for the payment of interdistrict tuition. In addition, the factors to be considered in making this determination have been amended in VTAE 10.03(2) to make them more relevant to the decision making process.

SECTION 10. VTAE 10.04(4) relating to prison inmates is repealed for the reasons outlined in the explanation for the change at Section 6.

SECTION 11. A new appeal process for districts contesting the residence of students included in the supplemental aid formula, and for students contesting a district residency determination concerning admission priorities, is established as VTAE 10.04(5). The provisions relating to petitions for change in resident status and setting forth an appeal process found currently at VTAE 10.04(5) and (6) are believed to be outdated and in need of revision given the changes made by Act 336.

SECTION 12. With consolidation of the appeal process into new VTAE 10.04(5) in SECTION 11, VTAE 10.04(6) is repealed.

SECTION 13. With repeal of the statutory provisions relating to interdistrict tuition, VTAE 10.05(1)(c), (2)(c) and (d), relating to exemption from payment of interdistrict tuition by individuals subject to reciprocal

payments, individuals subject to interdistrict contractual agreements and apprentices have been proposed for repeal.

SECTION 14. VTAE 10.05(2)(e) would be amended to use the terminology "nonresident fees" in place of "out-of-state tuition." This better describes the fees due from non-residents.

SECTION 15. To accommodate the removal of VTAE 10.05(1)(c), (2)(c) and (d) as noted in the analysis for Section 11, current VTAE 10.05(1)(d) and (2)(e) would be renumbered VTAE 10.05(1)(c) and (2)(c), respectively.

SECTION 16. With repeal of statutory provisions relating to hardship enrollments and jointly offered programs, VTAE 10.055 is repealed.

SECTION 17. In accord with Act 336 repealing and recreating s. 38.22(5), Stats., the Board proposed to create as VTAE 10.06 enrollment priorities "for programs not offered statewide" which are defined as programs offered in 5 or fewer districts. A percentage of student stations, based upon the number of districts offering the program, is reserved for nondistrict resident students until 6 months prior to the start of a semester or session. This requirement for reservation of places is similar to current rule VTAE 10.08 except that the reservation of places is limited to programs offered in 5 or fewer districts as opposed to 13 or fewer districts. Current VTAE 10.06 is repealed due to the repeal of interdistrict tuition since it relates to district liability for payment of interdistrict tuition.

SECTION 18. Current VTAE 10.07 relating to apprentices enrolled in block apprentice programs has been repealed since apprentice training is currently provided by contract under s. 38.14, Stats. A new VTAE 10.07 is created which establishes priorities for programs offered statewide which are defined as programs offered in more than 5 districts. The rule provides that until 8 months prior to the start of a semester or session district residents have enrollment priority, from 8 months prior to the start of a semester or session until 6 months prior to the start of a semester or session district residents and nondistrict residents have priority on an equal basis, and from 6 months prior to the start of a semester or session district residents, non-district state residents and nonresidents would all be considered equally.

SECTION 19. VTAE 10.08 concerning reservation of places for programs not offered statewide is repealed. As noted in Section 15, this provision has been replaced by a new VTAE 10.06.

SECTION 20. To accommodate repeal of VTAE 10.08, current VTAE 10.09 relating to the refund policy is renumbered as VTAE 10.08.

1 **SECTION 1.** VTAE 10.01 is amended to read:

2 VTAE 10.01 PURPOSE AND APPLICATION. The purpose of this chapter is to
3 establish policies, procedures and administratively interpret ss. 38.22(4) and
4 (5) and ~~38.24(1)(b), (2) and (3), and 38.28(6)~~, Stats., relating to
5 determination of residency for persons attending district schools, exemptions
6 from payment of program fees, ~~district liability for payment of interdistrict~~
7 ~~tuition~~ priorities for admission of district residents, non-district state
8 residents and nonresidents to programs, apprentices enrolled in block
9 ~~apprentice programs~~ reservation of places for non-district state resident
10 students in programs not offered statewide, and fee refunds. These rules are
11 adopted pursuant to ss. 38.22(5) and ~~227.014(2)(a)~~ 227.11(2)(a), Stats.

12 **SECTION 2.** VTAE 10.02(3) is amended to read:

13 VTAE 10.02(3) "Director" means a the person appointed by the board under
14 s. 38.04(2), Stats.

15 **SECTION 3.** VTAE 10.02(7) is repealed.

16 **SECTION 4.** VTAE 10.02(6) is renumbered VTAE 10.02(7).

17 **SECTION 5.** VTAE 10.02(6) is created to read:

18 VTAE 10.02(6) "District resident" means a person whose permanent
19 residence is within the district as determined under s. VTAE 10.04(2).

20 **SECTION 6.** VTAE 10.02(10) is amended to read:

21 VTAE 10.02(10) "Non-district state resident" means a person whose
22 permanent residence is outside the district, but inside the state.

23 **SECTION 7.** VTAE 10.03(4) is repealed.

24 **SECTION 8.** VTAE 10.03(5) and (6) are renumbered VTAE 10.03(4) and (5)
25 respectively.

26 **SECTION 9.** VTAE 10.04(title), (1) and (2) are amended to read:

1 VTAE 10.04(title) DISTRICT RESIDENCY DETERMINATION. (1) GENERAL
2 PROVISIONS. ~~Any~~ To compute supplemental aid payments under s. 38.28(6),
3 Stats., and to determine whether a person is a district resident or non-
4 district state resident for admission priorities under ss. VTAE 10.06 and
5 10.07 any resident of the state who has maintained a permanent residence
6 within the district next preceding the ~~beginning of a semester or session~~ date
7 such person makes application is a district resident for fee purposes.

8 (2) DETERMINATION OF RESIDENCE. In determining residence at the time of
9 ~~the beginning of any semester or session~~ application, the intent of the person
10 to establish and maintain a permanent residence in the district is
11 determinative. A person who enters and remains in the district ~~principally~~
12 principally to obtain an education is presumed to continue to reside outside
13 the district, and such presumption continues in effect until rebutted by clear
14 and convincing evidence of permanent resident in the district. In addition to
15 representations by the person, intent may be demonstrated or disproved by
16 factors including, but not limited to, ~~filing of~~ the residence indicated on
17 the most recent Wisconsin income tax ~~returns~~ return, eligibility to vote in
18 the ~~state~~ district, motor vehicle registration in the ~~state~~ district,
19 possession of a Wisconsin motor vehicle operator's license with a district
20 address, place of employment, and self support. State and district residency
21 may be established concurrently.

22 **SECTION 10.** VTAE 10.04(4) is repealed and recreated to read:

23 (4) APPLICANT AND STUDENT COOPERATION. Applicants for admission and
24 students attending a district shall cooperate with officials of a district and
25 supply requested documentation, information, and statements as deemed
26 necessary by said officials to make the determination required under sub. (2).

1 **SECTION 11.** VTAE 10.04(5) is repealed and recreated to read:

2 VTAE 10.04(5). **APPEAL.** (a) Persons or districts adversely affected by a
3 decision of an official of a district made under this section may appeal that
4 decision to the district director within 30 days of the official's decision.
5 The district director shall issue a written decision within 30 days of receipt
6 of a written request of the person or district adversely affected.

7 (b) Persons or districts dissatisfied with the decision of the district
8 director under par. (a) may appeal that decision in writing to the director.
9 The director shall issue a written decision within 30 days of the receipt of
10 the written appeal.

11 (c) The decision of the director shall be subject to review pursuant to
12 ch. 227, Stats., and ch. VTAE 4.

13 **SECTION 12.** VTAE 10.04(6) is repealed.

14 **SECTION 13.** VTAE 10.05(1)(c) and (2)(c) and (d) are repealed.

15 **SECTION 14.** VTAE 10.05(2)(e) is amended to read:

16 VTAE 10.05(2)(e). Students under approved interstate reciprocity
17 agreements are exempt from ~~out-of-state tuition~~ nonresident fees as provided
18 for in the agreement.

19 **SECTION 15.** VTAE 10.05(1)(d) and (2)(e) are renumbered VTAE 10.05(1)(c)
20 and (2)(c) respectively.

21 **SECTION 16.** VTAE 10.055 is repealed.

22 **SECTION 17.** VTAE 10.06 is repealed and recreated to read:

23 VTAE 10.06 ENROLLMENT PRIORITIES FOR PROGRAMS NOT OFFERED STATEWIDE. (1)
24 **DEFINITION.** In this section, "program not offered statewide" means an
25 associate degree or vocational program offered in 5 or fewer districts.

1 (2) PRIORITIES. In programs not offered statewide, the percentage of
2 student stations reserved for non-district state residents shall be based on
3 the number of districts offering the specific program as determined by the
4 board. Based upon the board's determination the following percentage of
5 student stations shall be reserved:

6 (a) One district offering program = 35.0 percent of the student
7 stations.

8 (b) Two districts offering program - 17.5 percent of the student
9 stations per district.

10 (c) Three districts offering program = 11.6 percent of the student
11 stations per district.

12 (d) Four districts offering program = 8.75 percent of the student
13 stations per district.

14 (e) Five districts offering program = 7.0 percent of the student
15 stations per district.

16 (3) DURATION OF PRIORITY. The percentage of student stations for non-
17 district state residents shall be reserved until 6 months prior to the
18 beginning of the semester or session for which the non-district state resident
19 is seeking admission. Thereafter all district residents, non-district state
20 residents, and non-residents seeking admission shall be considered in accord
21 with the procedures for enrollment priorities for programs offered statewide
22 under s. VTAE 10.07.

23 **SECTION 18.** VTAE 10.07 is repealed and recreated to read:

24 VTAE 10.07 ENROLLMENT PRIORITIES FOR PROGRAMS OFFERED STATEWIDE. (1)

25 DEFINITION. In this section, "programs offered statewide" means an associate
26 degree or vocational program offered in more than 5 districts, or a program

1 offered in 5 or fewer districts where the priorities established under
2 s. VTAE 10.06 have expired.

3 (2) PRIORITIES FOR ADMISSION. In programs offered statewide:

4 (a) District residents who have submitted an application shall have
5 priority for admission until 8 months prior to commencement of the semester or
6 session for which admission is sought.

7 (b) District residents and non-district state residents shall be equally
8 considered for spaces remaining available in the program for which application
9 is made from the expiration of the period specified in par (a) until 6 months
10 prior to the semester or session for which admission is sought.

11 (c) District residents, non-district state residents and nonresidents
12 shall be equally considered for spaces remaining available in the program for
13 which application is made from the expiration of the period specified in par.

14 (b) until commencement of the session or semester for which admission is
15 sought.

16 (3) SPECIAL PRIORITIES. Notwithstanding the priorities established in
17 sub. (2) a district shall reserve a number of spaces equal to 5 percent of the
18 total spaces available in a program, rounded up to the next whole number, for
19 individuals with special needs or hardships, as defined by the district, until
20 3 months prior to the start of any semester of session. Thereafter any places
21 remaining in this priority shall be filled in the following order:

22 (a) By district residents who previously made application but were not
23 admitted due to spaces in the program being unavailable.

24 (b) By non-district state residents who previously made application but
25 were not admitted due to spaces in the program being unavailable.

1 (c) By nonresidents who previously made application but were not
2 admitted due to spaces in the program being unavailable.

3 (d) By individuals regardless of residency who make application within 3
4 months of the start of a semester or session.

5 (4) COLLEGIATE TRANSFER PROGRAMS. Notwithstanding subs. (2) and (3)
6 persons seeking enrollment in collegiate transfer programs shall be considered
7 for admission without respect to their residence.

8 (5) RECIPROCITY STUDENTS. Students seeking admission to a program who
9 are subject to an interstate reciprocity agreement shall be considered for
10 enrollment based upon the residency category established in the reciprocity
11 agreement.

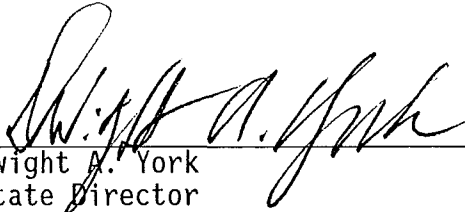
12 **SECTION 19.** VTAE 10.08 is repealed.

13 **SECTION 20.** VTAE 10.09 is renumbered VTAE 10.08.

The rules contained in this Order shall take effect 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 29th day of August, 1990.

WISCONSIN BOARD OF VOCATIONAL,
TECHNICAL AND ADULT EDUCATION


Dwight A. York
State Director

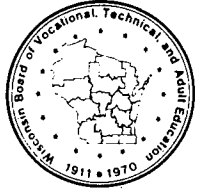
Wisconsin Board of Vocational, Technical and Adult Education

310 Price Place

P.O. Box 7874

Madison, WI 53707

608-266-1207



Dwight A. York
State Director

October 10, 1990

Mr. Bruce Munson
Revisor of Statutes
119 Martin Luther King, Jr. Blvd.
Second Floor
Madison, WI 53702

Re: Clearinghouse Rule 90-94

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 90-94), amending chapter VTAE 10, relating to residency, admissions and fee refunds for students attending vocational, technical and adult education districts. 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,

A handwritten signature in black ink, appearing to read "Edward S. Alschuler".

Edward S. Alschuler
General Counsel

ESA:PLD

Enclosures

cc: Dwight A. York, State Director
Edward Chin, Assistant State Director
Glenn Davison, Assistant State Director
Linda Stewart, Executive Assistant
Thomas Fletemeyer, Bureau Director