




**AGENDA AND NOTICE OF MEETING
TEACHERS RETIREMENT (TR) BOARD
STATE OF WISCONSIN**

Holiday Inn Hotel and Suites 1109 Fourier Dr. Madison, WI	Thursday, June 18, 2009 11:15 a.m.* Conf Room C <i>*Or immediately following the conclusion of the Wisconsin Retirement Board meeting.</i>
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Documents for this meeting are available on-line at: http://etf.wi.gov/boards/board_wr.htm
To request a printed copy of any of the agenda items, please contact *Cindy Gilles at (608) 261-0736.*

 *Denotes action item*

- 11:15 a.m. 1. **Call to Order**
- 11:15 a.m.  2. **Consideration of March 19, 2009, TR Board Meeting Minutes**
- 11:20 a.m. 3. **Announcements**
- Welcome/Introduction of New Teachers Retirement Board Members, Susan Harrison and Sandra Clafin-Chalton
 - Teachers Retirement Board Election Results: Outgoing Members Wayne McCaffery and Dennis Panicucci
 - Employee Trust Funds (ETF) Board Update
- 11:25 a.m.  4. **Appointment to Employee Trust Funds Board**
- A public school administrator or school board member.
- 11:30 a.m.  5. **Approvals**
- Wisconsin Administrative Code Chapters 10 and 50 Revisions: Termination of Employment and Leave of Absence
- 11:35 a.m. 6. **Operational Updates**
- TR Board Roster Update
 - Quarterly Disability Statistics Report: January 2009-March 2009
 - Future Items for Discussion
- 11:40 a.m. 7. **Recognition of Outgoing Board Members**
- Wayne McCaffery, Dennis Panicucci, Bob Shaw
- 11:45 a.m. 8. **Adjournment**

Times shown are estimates only.

NOTES:

- **Lunch will be served for members of the TR Board at 11:45 a.m. in George's Chophouse. No Board business will be discussed.**
- **A quorum of the TR may be in attendance at the ETF Board meeting to observe at 12:45 p.m. The TR Board will conduct no business.**

The meeting location is handicap accessible. If you need other special accommodations due to a disability, please contact Cindy Gilles, Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707-7931. Telephone: (608) 261-0736. Wisconsin Relay Service 7-1-1. E-mail: cindy.gilles@etf.state.wi.us

**MINUTES OF MARCH 19, 2009, MEETING
STATE OF WISCONSIN
TEACHERS RETIREMENT BOARD**

DRAFT

Holiday Inn Hotel and Suites
1109 Fourier Drive, Madison, WI

BOARD PRESENT:

Lon Mishler, Chair Dennis Panicucci, Vice-Chair Robin Starck, Secretary Mike Langyel Dan Nerad	Patrick Phair Roberta Rasmus Steve Scheible David Wiltgen
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BOARD NOT PRESENT:

Tom Pedersen Wayne McCaffery	Robert Shaw
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PARTICIPATING ETF STAFF:

Dave Stella, Secretary Bob Conlin, Deputy Secretary Cindy Gilles, Board Liaison	Sari King, Office of Legislative Affairs, Communications and Quality Assurance
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OTHERS PRESENT:

Office of the Secretary: Rhonda Dunn, Sharon Walk Division of Insurance Services: Diane Poole	Division of Retirement Services: Jean Gilding, Linda Owen, Office of Policy, Privacy and Compliance
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Lon Mishler, Chair, called the meeting of the Teachers Retirement Board (Board) to order at 1:00 p.m.

CONSIDERATION OF MINUTES

Motion: Ms. Rasmus moved approval of the minutes of the December 11, 2008, Teachers Retirement Board meeting as submitted by the Board Liaison. Mr. Phair seconded the motion, which passed without objection on a voice vote.

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ANNOUNCEMENTS

Teachers Retirement Board Election/Election Committee Sari King, Office of Legislative Affairs, Communications and Quality Assurance, referred the Board to the memo dated March 4, 2009, regarding the candidates for election to the Board. Ballot distribution will take place the end of April and the results will be announced at the June Board meeting.

Ms. King asked for two volunteers for appointment to the Election Committee. The duties of the Election Committee are to review invalid ballots, resolve any discrepancies, and certify and accept the election report that will be prepared by an outside vendor. The Election Committee will meet prior to the June 18, 2009, Board meeting. Mr. Starck and Mr. Wiltgen volunteered and were appointed to the Committee.

Reappointment Daniel Nerad has been reappointed to the Teachers Retirement Board for a five-year term.

ELECTION OF OFFICERS

Mr. Mishler requested the action of the Board regarding the election of officers. A memorandum was provided to the Board, which included a list of current officers as well as a current Board member roster.

Nomination: Ms. Rasmus nominated Lon Mishler as Chair, Michael Langyel as Vice-Chair, and Robin Starck as Secretary. Mr. Panicucci seconded the nomination.

Motion: Hearing no further nominations, Mr. Scheible moved to close nominations and cast a unanimous ballot to elect Lon Mishler as Chair, Michael Langyel as Vice-Chair, and Robin Starck as Secretary. Ms. Rasmus seconded the motion, which passed without objection on a voice vote.

EDUCATIONAL TOPIC

Role of Teachers Retirement Board Mr. Conlin reviewed the role of the Teachers Retirement (TR) Board as outlined in the slide presentation handout dated March 19, 2009. The difference between the Employee Trust Funds (ETF) Board and the TR and Wisconsin Retirement (WR) Boards is that the ETF Board's functions include policy, oversight and administration; while the TR and WR Boards' functions include advisory and quasi-judicial functions.

Mr. Conlin reviewed the statutory responsibilities and authority of the ETF Board versus those of the TR Board. With regard to appointments to the ETF Board, the TR Board has four appointments on the ETF Board and one on the State of Wisconsin Investment Board (SWIB). TR Board appointments to the ETF Board are for four-year terms, generally expiring on May 1 of odd-numbered years and SWIB appointments are for six years. Appointees to the ETF Board must be members of the TR Board at the time of appointment and hold office until a vacancy occurs or until they are replaced by the TR Board.

APPOINTMENT TO ETF BOARD

Milwaukee Teachers Seat Mr. Mishler reminded the Board that three of the four TR Board seats on the ETF Board are currently held by members that are no longer on the TR Board.

Motion: Mr. Starck made a motion to appoint Michael Langyel as the Milwaukee Metropolitan School District representative on the ETF Board. Mr. Panicucci seconded the motion, which passed without objection on a voice vote.

In the future, the Board would like to be more systematic about examining ETF Board appointments, when TR Board terms expire while serving on the ETF Board.

OPERATIONAL UPDATES

Disability Statistics Summaries Mr. Mishler referred the Board to the memo in the Board packet.

Items for Future Discussion The Board members expressed interest in the Variable Fund, contribution rates, information on whether or not retirements have slowed down statewide and educational support staff retirements.

Ms. King was thanked by the Board members for speaking with the educational group in Milwaukee.

DISCUSSION AND CONSIDERATION

Proposal for Single Day Quarterly Board Meetings

Motion: Mr. Wiltgen moved to recommend a single-day Board meeting to the ETF Board. Mr. Phair seconded the motion, which passed without objection on a voice vote.

ADJOURNMENT

Motion: Mr. Starck moved to adjourn the meeting. Ms. Rasmus seconded the motion, which passed without objection on a voice vote.

The meeting of the Teachers Retirement Board adjourned at 1:55 p.m.

Date Approved: _____

Signed: _____

Robin Starck, Secretary
Teachers Retirement Board



STATE OF WISCONSIN
Department of Employee Trust Funds
David A. Stella
SECRETARY

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Madison WI 53707-7931

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CORRESPONDENCE MEMORANDUM

DATE: June 4, 2009
TO: Teachers Retirement Board
FROM: Cindy Gilles, Board Liaison
SUBJECT: Membership on the Employee Trust Funds Board

The Teachers Retirement (TR) Board is asked to consider its appointment of a public school administrator or school board member to a seat on the Employee Trust Funds (ETF) Board at the September 17, 2009, ETF Board meeting.

The TR Board, by statute, appoints four members to serve on the ETF Board. These appointments are staggered, four-year terms. Terms end on May 1 so new appointments typically occur in March.

Nancy Thompson was appointed to ETF by the TR Board in 1999. Her term on the TR Board expired in 2003. She is currently up for consideration for replacement by a TR Board member who is a public school administrator or school board member.

At this time, the Board may either choose to fill the position on the ETF Board with the public school administrator (Dan Nerad) or school board member (Roberta Rasmus) TR Board member or take no action.

If an appointment is made at this time, the appointment will begin at the September 17, 2009, ETF meeting. The appointee will serve a term ending May 1, 2013.

The current TR and ETF Board rosters are attached for your reference.

Attachments: TR and ETF Board Rosters

Reviewed and approved by Robert J. Conlin, Deputy Secretary.

Signature

Date

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**2009
EMPLOYEE TRUST FUNDS BOARD
MEMBERSHIP ROSTER**

MEMBER NAME	TERM BEGAN	TERM EXPIRES	MEMBERSHIP REQUIREMENTS
David John	6/26/08	5/1/10	§ 15.16(1)(b) Appointed by Wisconsin Retirement Board. Any Wisconsin Retirement Board member. 4-year term
Donnelly Jennifer	3/23/07	Ex Officio	§ 15.16 (1) (intro.) Director of the Office of State Employment Relations or the Director's designee. Ex Officio
Finora Rosemary	8/8/06	5/1/09	§ 15.16 (1)(c) Appointed by Governor, with Senate confirmation. Public member who is not a participant in or beneficiary of the WRS, with at least five years of experience in actuarial analysis, administration of an employee benefit plan, or significant administrative responsibility in a major insurer. 4-year term
Fisher Theron	5/1/07 (5/03-5/07)	5/1/11	§ 15.16 (1)(d) Elected by WRS annuitants. WRS annuitant as defined for purposes other than life insurance under § 40.02 (4). 4-year term
Vacant * (Gale)			§ 15.16 (1)(b)2 Appointed by Wisconsin Retirement Board. Wisconsin Retirement Board member appointed under § 15.165 (3)(b) 3, 6 or 7 (participating employee of a city or village, participating employee of a local employer other than a city or village or participating state employee). 4-year term
Koessl (V) Wayne	5/1/00 (5/96-5/00)	5/1/04	§ 15.16 (1)(b)1 Appointed by Wisconsin Retirement Board. Wisconsin Retirement Board member appointed under § 15.165 (3)(b)1, 2, 4, 5 or 8 (chief executive, finance officer or member of governing body of a participating city or village, county clerk, deputy county clerk, chairperson, or member of the governing body of a participating county or town, or public member who is not a participant). 4-year term
Kreul Kathleen	5/1/07 (5/03-5/07)	5/1/11	§ 15.16 (1)(f) Elected by educational support personnel. WRS participant who is either a public school district educational support personnel employee or a technical college district educational support employee. 4-year term
Langyel Michael	3/20/09	5/1/13	§ 15.16 (1)(a)3 Appointed by Teachers Retirement Board. Teachers Retirement Board member elected under § 15.165 (3)(a)7 (City of Milwaukee teacher participant). 4-year term
McCaffery Wayne	5/1/07 (5/03-5/07) (5/99-5/03)	5/1/11	§ 15.16 (1)(a)1 Appointed by Teachers Retirement Board. Teachers Retirement Board member appointed or elected under § 15.165 (3)(a) 1 or 2 (public or vocational school teacher). 4-year term
Niendorf (S) Robert	5/1/00 (5/92-5/96) (5/96-5/00)	5/1/04	§ 15.16 (1)(a)2 Appointed by Teachers Retirement Board. Teachers Retirement Board member appointed under § 15.165 (3)(a)4 (UW teacher participant). 4-year term
Sherman Gary	1/24/05	Ex Officio	§ 15.16 (1) (intro.) Governor or the Governor's designee on the Group Insurance Board. Ex Officio
Thompson Nancy	3/18/99	5/1/03	§ 15.165 (3)(a) 5 Appointed by Teachers Retirement Board. Teachers Retirement Board member appointed under § 15.165 (3)(a) 3 or 5 (public school administrator or school board member). 4-year term
Wigdahl (C) Marilyn	5/1/99 (6/87-5/91) (6/91-5/95) (5/95-5/99)	5/1/03	§ 15.16 (1)(b) 3 Appointed by Wisconsin Retirement Board. Wisconsin Retirement Board member appointed under § 15.165 (3)(b) 7 or 8 (participating state employee or public member who is not a participant). 4-year term

*Rick Gale resigned in December 2008. A replacement has not yet been appointed.

(C) – Chair (V) – Vice-Chair (S) – Secretary

MAILINGS FOR BOARD MEMBERS SHOULD BE SENT TO:

(Revised 6.4.09)

Employee Trust Funds Board
c/o Cindy Gilles, Board Liaison
Department of Employee Trust Funds
PO Box 7931
Madison WI 53707-7931
Phone (608) 261-0736

**2009
TEACHERS RETIREMENT BOARD
MEMBERSHIP ROSTER**

MEMBER NAME	TERM BEGAN	TERM EXPIRES	MEMBERSHIP REQUIREMENTS
Clafin-Chalton Sandra	5/1/09	5/1/14	§ 15.165 (3)(a)4 Appointed by Governor. UW teacher participant in WRS (not from same campus as other UW teacher representative). 5-year term
Harrison Susan	5/1/09	5/1/14	§ 15.165 (3)(a)4 Appointed by Governor. UW teacher participant in WRS (not from same campus as other UW teacher representative). 5-year term
Langyel (V) Michael	5/1/05	5/1/10	§ 15.165 (3)(a)7 Elected by Milwaukee public school teachers who are participants City of Milwaukee teacher who is a participant in WRS. 5-year term
McCaffery Wayne	5/1/04 (5/89-5/94) (5/94-5/99) (5/99-5/04)	5/1/09	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Mishler (C) Lon	5/1/08 (5/03-5/08)	5/1/13	§ 15.165 (3)(a) 6 Elected by annuitants who were teacher participants. Annuitant who was a teacher participant in WRS. 5-year term
Nerad Dan	5/1/08 (10/04-5/08)	5/1/13	§ 15.165 (3)(a)3 Appointed by Governor. Public school administrator who is not a classroom teacher. 5-year term
Panicucci Dennis	5/1/04	5/1/09	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Pedersen R. Thomas	5/1/08 (5/03-5/08)	5/1/13	§ 15.165 (3)(a)2 Elected by participating Wisconsin Technical College teachers. Public school teacher from a participating Wisconsin Technical College district and a participating employee in WRS. 5-year term
Phair Patrick	5/1/06	5/1/11	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Rasmus Roberta	5/1/08 (9/04-5/08)	5/1/13	§ 15.165 (3)(a) 5 Appointed by Governor. Member of a school board. 5-year term
Scheible Steven	5/1/07	5/1/12	§ 15.165(3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Starck (S) Robin	5/1/06	5/1/11	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Wiltgen David	5/1/07 (5/02-5/07)	5/1/12	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term

(C) – Chair (V) – Vice-Chair (S) – Secretary MAILINGS FOR BOARD MEMBERS SHOULD BE SENT TO:

Teachers Retirement Board
c/o Cindy Gilles, Board Liaison
Department of Employee Trust Funds
PO Box 7931
Madison WI 53707-7931
Phone (608) 261-0736

(Revised 5/4/09)

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS
EMPLOYEE TRUST FUND BOARD
WISCONSIN RETIREMENT BOARD
TEACHERS RETIREMENT BOARD**

FINAL DRAFT REPORT ON CLEARINGHOUSE RULE #08-026

FINAL RULE to amend ETF 10.08 (2) (b) 4. and to create ETF 50.30 (4), relating to termination of employment and administrative leave of absence.

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Agency Person to be Contacted for Questions

Please direct any questions about the proposed rule to David Nispel, General Counsel, Department of Employee Trust Funds, P.O. Box 7931, Madison WI 53707. Telephone: (608) 264-6936. E-mail address: david.nispel@etf.state.wi.us.

Statement Explaining Need for Rule

This rule-making is needed reflect current department interpretation of s. 40.63, Stats. regarding permitting a disabled employee, who is on a leave of absence and not expected to return to service, to apply for a disability annuity benefit and to receive such benefits if the employee’s application is approved. The proposed rule will conform the eligibility criteria regarding termination of employment for s. 40.63, Stats. disability annuities with the criteria regarding long-term disability insurance benefits under s. ETF 50.54 (2) (b). For example, under this rule, the effect on a person’s health insurance and premiums would not vary depending on whether the employer participated in the group insurance board’s health insurance under ch. 40 or if the employer offered other health insurance.

Analysis Prepared by the Department of Employee Trust Funds

1. Statute interpreted:

Section 40.63, Stats.

2. Statutory authority:

Sections 40.03 (2) (i) and 227.11 (2) (a), Stats.

3. Explanation of agency authority:

By statute, the DETF Secretary is expressly authorized, with appropriate board approval, to promulgate rules required for the efficient administration of any benefit plan established in ch. 40 of the Wisconsin statutes. Also, each state agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency considers it necessary to effectuate the purpose of the statute.

4. Related statute or rule:

Ch. ETF 10, Wis. Admin. Code, concerns the administration of the Public Employee Trust Fund and Ch. ETF 50 concerns disability benefits provided in accordance with the trust fund. Section 40.63, Stats., concerns disability annuities from the Wisconsin retirement system. There are no other related administrative rules or statutes.

5. Plain language analysis:

The purpose of this rule is to enable participants to continue to receive non-chapter 40, Stats., benefits offered by their employer, such as health insurance, while they are receiving disability benefits under s. 40.63, Stats.

6. Summary of, and comparison with, existing or proposed federal regulations:

The only federal regulations that may be affected by this proposed rule are provisions of the Internal Revenue Code regulating qualified pension plans. The Wisconsin Retirement System is required to be maintained as a qualified plan by s. 40.015, Stats. As a general rule, pension plans are supposed to provide benefits at retirement. However, federal regulations state that a pension plan may provide for the payment of a pension due to disability. The Wisconsin Retirement System provides for disability annuities under s. 40.63, Stats.

7. Comparison with rules in adjacent states:

The department did not locate any comparable rule or statute in any adjacent states.

8. Summary of factual data and analytical methodologies:

Currently, the department interprets s. 40.63, Stats., to permit a disabled employee, who is on a leave of absence and not expected to return to service, to apply for a disability annuity benefit and to receive such benefits if the employee's application is approved. This practice followed an internal review of the department's policies and the pertinent statutes and administrative rules for administering the s. 40.63, Stats., disability benefit program.

This proposed rule addresses the status of disability annuitants with regard to the Wisconsin Retirement System and other fringe benefits under ch. 40, Stats. For example, if a disabled employee is deemed to have terminated employment for all ch. 40 purposes, the effect on that person's health insurance and premiums would vary depending on whether the employer participated in the group insurance board's health insurance under ch. 40 or if the employer offered other health insurance.

Under s. ETF 50.54 (2) (b), long-term disability insurance benefits, which replaced disability annuity benefits for employees not continuously employed since before October 16, 1992, already are available for employees on a leave of absence. This proposed rule will conform the eligibility criteria regarding termination of employment for both disability annuities and long-term disability insurance.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

This rule does not have an effect on small businesses because private employers and their employees do not participate in, and are not covered by, the Wisconsin Retirement System.

10. Anticipated costs incurred by private sector

None.

11. Statement of effect on small business:

The rule has no effect on small businesses.

Regulatory Flexibility Analysis:

The proposed rule has no significant effect on small businesses because only governmental employers and their employees may participate in the benefit programs under ch. 40 of the statutes administered by the Department of Employee Trust Funds.

Fiscal Estimate:

The proposed rule has no direct fiscal impact. The proposed rule generates no revenues for any employer. The proposed rule itself has no effect on the fiscal liabilities of any county, city, village, town, school district, technical college district or sewerage. The rule has no state fiscal effect during the current biennium and no fiscal impact on state funds.

Text of Rule

Section 1. ETF 10.08 (2) (b) 4. is amended to read:

ETF 10.08 (2) (b) 4. ~~Upon~~ Except as provided in ETF 50.30 (4), upon termination of employment the participant is treated consistently with the status of a former employee. This includes, but is not limited to the terminated employee no longer being eligible for benefits available only to active employees. Examples of such benefits may include health insurance, life insurance, income continuation insurance coverage, making deferred compensation or tax sheltered annuity contributions, worker's compensation coverage, internal grievance, promotion or transfer rights, or rights available to active employees under a collective bargaining agreement. This subd. shall not apply to benefits that may be available to the employer's retired employees, such as severance pay, post-retirement insurance coverage and/or employer payment of premiums, or post-retirement benefits or other rights provided through collective bargaining or other retirement agreements. However, agreements made after the termination date for future compensable services to be rendered by the employee would not be precluded under subd. 3.

Section 2. ETF 50.30 (4) is created to read:

ETF 50.30 (4) For purposes of benefits administered under ch. 40, Stats., the participant shall be treated as terminated for all ch. 40, Stats., purposes effective on the date before the s. 40.63, Stats., annuity is effective or on the termination date reported to the department by the employer, whichever is earlier. The benefits include, but are not limited to, health insurance coverage, sick leave credit usage, life insurance coverage, income continuation insurance coverage, Wisconsin retirement system coverage and death benefits under s. 40.73 (1) (am) and (c), Stats., and deferred compensation contributions and benefits under s. 40.80, Stats. This rule does not preclude a participating employer from placing the participant on an administrative leave of absence for purposes of benefits not administered under ch. 40, Stats.

(end of rule text)



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **08-026**

AN ORDER to amend ETF 10.08 (2) (b) 4., and to create ETF 50.30 (4), relating to termination of employment and administrative leave of absence.

Submitted by **DEPARTMENT OF EMPLOYE TRUST FUNDS**

04-08-2008 RECEIVED BY LEGISLATIVE COUNCIL.

05-01-2008 REPORT SENT TO AGENCY.

RNS:WF

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Clearinghouse Director

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Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 08-026

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

2. Form, Style and Placement in Administrative Code

a. In both sections of the rule, the entire citation should be shown in the text. For example, in SECTION 1, “ETF 10.08 (2) (b)” should be inserted before “4.”

b. In s. ETF 50.30 (4), “shall” should replace “must” and “The” should replace “Such.” Also, “subs.” should be replaced with “subsection.” [See s. 1.07, Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the analysis to the rule, “Stats.” should replace “Wis. Stats.”.

b. In s. ETF 50.30 (4), “Stats.” should be inserted after the fourth statutory citation.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The “plain language analysis” in the analysis to the rule states that a purpose of the rule is to enable participants to continue to receive **private benefits** offered by their employer, such as health insurance, while they are receiving disability benefits under s. 40.63, Stats. The meaning of the term “private benefits” is unclear. If the term “private benefits” refers to benefits other than those provided under ch. 40, Stats., the analysis should be redrafted to specifically state this. If the term has some other meaning, it should be more clearly stated.

b. SECTION 2 should be drafted to effectuate the intent of the rule more clearly. The apparent intent of the rule is to clearly state that (as specifically authorized in s. 40.63 (1) (c), Stats.) a person who is placed on an administrative leave of absence and who is not expected to

resume active service may qualify for a disability benefit under s. 40.63, Stats. However, this intent is obscured because the proposed subsection, rather than stating this directly, indirectly states that a “termination of employment” does “not preclude” a participating employer from placing the participant on administrative leave of absence if the employee is not expected to resume active service. In addition, this intent is obscured because the first sentence of the subsection, without mentioning anything about an administrative leave of absence, states that a participant must terminate all participating employment in order to be eligible for disability benefit under s. 40.63, Stats.

Response to Legislative Council Staff Recommendations

The DETF implemented all of the Legislative Council Staff recommendations contained in the Clearinghouse Report. This involved making changes in form, style, grammar, punctuation, statutory and rule references, and use of plain language.

List of Persons Appearing or Registering For or Against the Rules.

No persons registered either for or against the rule at the public hearing on May 22, 2008.

Summary of Comments Received at Public Hearing.

No person wished to testify concerning the rule. The record was held open for written comments until 4:30 p.m. on May 22, 2008, but no comments were received.

Modifications to Rule as Originally Proposed as a Result of Public Comments

None.

Modifications to the Analysis Accompanying the Proposed Rule.

The analysis was revised to reflect the comments made by the Legislative Council Staff regarding the term “private benefits” and the intent of the rule.

Modifications to the Initial Fiscal Estimate

None.

Board Authorization for Promulgation

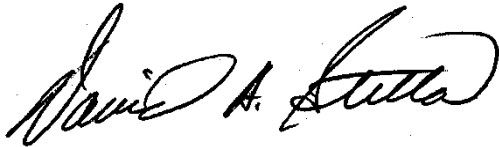
This final draft report on Clearinghouse Rule #08-026 has been duly approved for submission to the Legislature, and for promulgation, by the Department of Employee Trust Funds and by the Employee Trust Funds Board, Wisconsin Retirement Board and Teachers Retirement Board at their meetings on June 18, 2009.

Effective Date

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2), Stats.

Respectfully submitted,

DEPARTMENT OF EMPLOYEE TRUST FUNDS



David A. Stella
Secretary

Date: May 15, 2009



STATE OF WISCONSIN
Department of Employee Trust Funds
David A. Stella
SECRETARY

801 W Badger Road
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CORRESPONDENCE MEMORANDUM

DATE: June 18, 2009
TO: Employee Trust Funds Board
Wisconsin Retirement Board
Teachers Retirement Board
FROM: David H. Nispel, General Counsel
SUBJECT: Wisconsin Administrative Code Chapter 10 and Chapter 50 Revisions

Staff recommends that the Boards approve the final version of this proposed rule.

The Department of Employee Trust Funds (ETF) proposes to amend s. ETF 10.08 (2) (b) 4. and create s. ETF 50.30 (4), relating to termination of employment and administrative leave of absence. The proposed rule reflects current ETF interpretation of s. 40.63, Stats., regarding permitting a disabled employee, who is on a leave of absence and not expected to return to service, to apply for a disability annuity benefit and receive such benefits if the application is approved. The proposed rule will conform the eligibility criteria regarding termination of employment for s. 40.63, Stats. disability annuities with the criteria regarding long-term disability insurance benefits under s. ETF 50.54 (2) (b).

Board approval of the final version of the proposed rule is the next step in the administrative rule promulgation process. If approved, the rule revisions will be submitted to the State Legislature for consideration. Prior to this date, the Department has taken the following action:

- Scope statement approved by ETF Secretary (March 2008)
- Scope statement published in the Wisconsin Administrative Register (March 2008)
- Submitted the proposed rule and a report to the Legislative Council Administrative Rules Clearinghouse (April 2008)

Reviewed and approved by Robert Conlin, Deputy Secretary.

Signature Date

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WR	6/18/09	5
TR	6/18/09	5
ETF	6/18/09	7

- Submitted the rule and Legislative Council report to the Department of Administration and Legislative Reference Bureau along with notice of the scheduled public hearing (April 2008)
- Published the notice of hearing in the Wisconsin Administrative Register (April 2008)
- Held a public hearing (May 22, 2008)

The final draft report on the proposed administrative rule is attached to this memorandum. Minor technical changes to the rule were made in response to comments received in the Legislative Council Staff Clearinghouse Report. The rule now conforms to recommended form and style. There were no appearances at the public hearing and no written comments were received.

Department staff will be available at the meeting to discuss this memo and answer any questions you may have regarding the proposed revisions.

Attachment

**2009
TEACHERS RETIREMENT BOARD
MEMBERSHIP ROSTER**

MEMBER NAME	TERM BEGAN	TERM EXPIRES	MEMBERSHIP REQUIREMENTS
Claffin-Chalton Sandra	5/1/09	5/1/14	§ 15.165 (3)(a)4 Appointed by Governor. UW teacher participant in WRS (not from same campus as other UW teacher representative). 5-year term
Harrison Susan	5/1/09	5/1/14	§ 15.165 (3)(a)4 Appointed by Governor. UW teacher participant in WRS (not from same campus as other UW teacher representative). 5-year term
Langyel (V) Michael	5/1/05	5/1/10	§ 15.165 (3)(a)7 Elected by Milwaukee public school teachers who are participants City of Milwaukee teacher who is a participant in WRS. 5-year term
McCaffery Wayne	5/1/04 (5/89-5/94) (5/94-5/99) (5/99-5/04)	5/1/09	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Mishler (C) Lon	5/1/08 (5/03-5/08)	5/1/13	§ 15.165 (3)(a) 6 Elected by annuitants who were teacher participants. Annuitant who was a teacher participant in WRS. 5-year term
Nerad Dan	5/1/08 (10/04-5/08)	5/1/13	§ 15.165 (3)(a)3 Appointed by Governor. Public school administrator who is not a classroom teacher. 5-year term
Panicucci Dennis	5/1/04	5/1/09	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Pedersen R. Thomas	5/1/08 (5/03-5/08)	5/1/13	§ 15.165 (3)(a)2 Elected by participating Wisconsin Technical College teachers. Public school teacher from a participating Wisconsin Technical College district and a participating employee in WRS. 5-year term
Phair Patrick	5/1/06	5/1/11	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Rasmus Roberta	5/1/08 (9/04-5/08)	5/1/13	§ 15.165 (3)(a) 5 Appointed by Governor. Member of a school board. 5-year term
Scheible Steven	5/1/07	5/1/12	§ 15.165(3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Starck (S) Robin	5/1/06	5/1/11	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term
Wiltgen David	5/1/07 (5/02-5/07)	5/1/12	§ 15.165 (3)(a)1 Elected by public school teachers. Public school teacher. 5-year term

(C) – Chair (V) – Vice-Chair (S) – Secretary MAILINGS FOR BOARD MEMBERS SHOULD BE SENT TO:

Teachers Retirement Board
c/o Cindy Gilles, Board Liaison
Department of Employee Trust Funds
PO Box 7931
Madison WI 53707-7931
Phone (608) 261-0736

(Revised 5/4/09)

Board	Mtg Date	Item #
TR	6/18/09	6

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS**

**WISCONSIN RETIREMENT SYSTEM (WRS)
DISABILITY BENEFIT ANNUITY STATISTICAL REPORT
JANUARY - MARCH 2009**

This report provides a summary of disability information for the Board's review. Department staff have reviewed and made the following recommendations on initial disability applications submitted by participants. Staff review individual participant applications on an ongoing basis to determine if disability benefits can continue. If you have questions or would like additional information regarding disability benefits, please contact Diane Poole at (608) 266-5387 or diane.poole@etf.state.wi.us.

The following key describes the type of disability determinations made by ETF staff:

Approved – Disability applications that meet the service, medical and employer criteria required under §40.63 (1) and (4), Wis. Stats., are approved and processed for benefit payments.

Cancelled – Disability applications that are incomplete within one year after the Department receives the disability application are cancelled. Applications are considered incomplete if the Department has not received the required medical certification and/or employer statement.

Deemed Approved – Disability applications are deemed approved if the applicant meets the service requirement and the Department receives a valid disability application and one *Medical Report* certifying the applicant's disability prior to the applicant's death. The employer is also required to submit an Employer Statement.

Denial – Disability applications are denied if the applicant does not meet all of the statutory requirements (service, medical and employer statement).

Denial Rescinded: Approved – Disability applications that were initially denied because the applicant did not meet the statutory requirements. The denial has since been overturned and the application approved due to receipt of additional information or as determined by the appropriate Board.

Termed – Disability applications that were initially approved and benefit payments made may be terminated if the Department receives information from a physician certifying that the individual no longer meets the medical definition for a disability or the individual does not comply with requests for medical or financial information.

Termed Rescinded: Approved – Disability applications that were initially approved, but the annual medical recertification was completed indicating that the individual was no longer disabled or the individual did not comply with medical or financial requests. The termination may be rescinded upon receipt of a certifying medical report, financial information, or based on an appeal determination.

Withdrawn/Void/Invalid – Disability applications are withdrawn at the request of the applicant. This occurs most often when an applicant returns to active employment and no longer meets the statutory requirements for a disability benefit.

§ 40.63 Waiver – Disability application is submitted and there is a Long-Term Disability Insurance (LTDI) election form that waives all rights to benefits under Wisconsin statutes § 40.63 for a WRS disability retirement benefit.

WRS DISABILITY BENEFITS				
	Jan	Feb	Mar	Total
Disability Estimates Requested	60	57	56	173
Disability Estimates Completed	43	77	54	174
Disability Annuities Started (on payroll)				
	Jan	Feb	Mar	Total
Teachers Retirement Board § 40.63	1	2	5	8
Wisconsin Retirement Board § 40.63	3	6	20	29
§ 40.65 Duty Disability (WR Board)	4	3	2	9
Total Annuities Started	8	11	27	46

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS**

**WISCONSIN RETIREMENT SYSTEM (WRS)
DISABILITY BENEFIT ANNUITY STATISTICAL REPORT
JANUARY - MARCH 2009**

TEACHERS BOARD DISABILITY ANNUITIES STARTED BY OPTION SELECTED				
Option	Jan	Feb	Mar	Total
100% Continued to Named Survivor (Joint Survivor) with 180 Payments Guaranteed	0	1	2	3
Life Annuity with 60 Payments Guaranteed For Annuitant's Life Only	0	0	0	0
Life Annuity with 180 Payments Guaranteed	0	0	1	1
75% Continued to Named Survivor (Joint Survivor)	0	1	1	2
100% Continued to Named Survivor (Joint Survivor)	0	0	0	0
75% Continued to Annuitant or Named Survivor (Joint Survivor) Upon Death of Either	1	0	1	2
	0	0	0	0
TOTAL	1	2	5	8

TEACHERS BOARD DISABILITY ANNUITIES STARTED BY GENDER					
§ 40.63 Disability Benefits by Gender	% Pop.*	Jan	Feb	Mar	% of Total
Females	68%	0	1	3	50%
Males	32%	1	1	2	50%
TOTAL	100%	1	2	5	100%

*Active and inactive Teacher's Retirement Board population as of 12/31/08 for 2009

TEACHERS BOARD DISABILITY STATISTICS FOR APPLICATIONS SUBMITTED

TEACHERS BOARD DISABILITY APPLICATIONS SUBMITTED BY DETERMINATION				
Type of Determination	Jan	Feb	Mar	Total
Approved	2	8	6	16
Cancelled	0	0	1	1
Deemed Approved	0	1	0	1
Denial	0	1	0	1
Denial Rescinded: Approved	0	0	0	0
Termed	0	0	0	0
Termed Rescinded: Approved	0	0	0	0
Void/Withdrawn/Invalid	0	0	0	0
§ 40.63 Waiver	0	0	0	0
TOTAL	2	10	7	19

TEACHERS BOARD DISABILITY APPLICATIONS SUBMITTED BY AGE				
§ 40.63 Disability Benefits by Age	Jan	Feb	Mar	Total
20-25	0	0	0	0
26-30	0	0	0	0
31-35	0	0	0	0
36-40	0	0	0	0
41-45	0	2	0	2
46-50	0	0	1	1
51-55	1	4	4	9
56-60	0	1	1	2
61-65	1	3	1	5
TOTAL	2	10	7	19

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS**

**WISCONSIN RETIREMENT SYSTEM (WRS)
DISABILITY BENEFIT ANNUITY STATISTICAL REPORT
JANUARY - MARCH 2009**

TEACHERS BOARD DISABILITY APPLICATIONS SUBMITTED BY DISABILITY TYPE				
Disability Type	Jan	Feb	Mar	Total
Brain Injury	0	0	0	0
Cancer	1	3	2	6
Cardiovascular	0	0	0	0
Chronic Fatigue	0	0	0	0
Diabetes	0	0	0	0
Eye Disorders	0	0	0	0
Gastro/Intestinal	0	0	0	0
Mental Illness	0	1	2	3
Multiple Medical Problems	0	2	1	3
Multiple Sclerosis	0	0	0	0
Muscle/Tissue	0	1	0	1
Nephrology	0	0	0	0
Neurology	1	2	1	4
Orthopedic	0	0	1	1
Other	0	0	0	0
Reflex Sympathetic Dystrophy (RSD)	0	0	0	0
Respiratory	0	0	0	0
Unknown	0	1	0	1
TOTAL	2	10	7	19

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS**

**WISCONSIN RETIREMENT SYSTEM (WRS)
DISABILITY BENEFIT ANNUITY STATISTICAL REPORT
JANUARY - MARCH 2009**

WI RETIREMENT BOARD DISABILITY ANNUITIES STARTED BY OPTION SELECTED				
Option	Jan	Feb	Mar	Total
100% Continued to Named Survivor (Joint Survivor) with 180 Payments Guaranteed	2	2	8	12
Life Annuity with 60 Payments Guaranteed For Annuitant's Life Only	0	1	1	2
Life Annuity with 180 Payments Guaranteed	1	1	3	5
75% Continued to Named Survivor (Joint Survivor)	0	0	3	3
100% Continued to Named Survivor (Joint Survivor)	0	1	0	1
75% Continued to Annuitant or Named Survivor (Joint Survivor) Upon Death of Either	0	0	4	4
	0	1	1	2
TOTAL	3	6	20	29

WI RETIREMENT BOARD DISABILITY ANNUITIES STARTED BY GENDER					
§ 40.63 Disability Benefits by Gender	% Pop.*	Jan	Feb	Mar	% of Total
Females	62%	3	3	9	52%
Males	38%	0	3	11	48%
TOTAL	100%	3	6	20	100%

* Active and inactive WR population as of 12/31/2008 for 2009

WI RETIREMENT BOARD DISABILITY STATISTICS FOR APPLICATIONS SUBMITTED

WI RETIREMENT BOARD DISABILITY APPLICATIONS SUBMITTED BY DETERMINATION				
Type of Determination	Jan	Feb	Mar	Total
Approved	5	14	15	34
Cancelled	1	1	2	4
Deemed Approved	0	0	0	0
Denial	0	0	3	3
Denial Rescinded: Approved	0	0	0	0
Other	0	0	0	0
Termed	0	0	0	0
Term. Rescinded: Approved	0	0	0	0
Void/Withdrawn/Invalid	0	0	0	0
§ 40.63 Waiver	0	0	0	0
TOTAL	6	15	20	41

WI RETIREMENT BOARD DISABILITY APPLICATIONS SUBMITTED BY AGE				
§ 40.63 Disability Benefits by Age	Jan	Feb	Mar	Total
20-25	0	0	0	0
26-30	0	0	0	0
31-35	0	0	0	0
36-40	0	0	0	0
41-45	0	0	1	1
46-50	2	4	3	9
51-55	3	3	11	17
56-60	1	6	4	11
61-65	0	2	1	3
TOTAL	6	15	20	41

**STATE OF WISCONSIN
DEPARTMENT OF EMPLOYEE TRUST FUNDS**

**WISCONSIN RETIREMENT SYSTEM (WRS)
DISABILITY BENEFIT ANNUITY STATISTICAL REPORT
JANUARY - MARCH 2009**

WI RETIREMENT BOARD DISABILITY DETERMINATIONS				
Disability Type	Jan	Feb	Mar	Total
Brain Injury	0	0	0	0
Cancer	2	1	3	6
Cardiovascular	0	0	0	0
Chemical Dependency	0	0	0	0
Diabetes	0	0	0	0
Eye Disorders	0	0	0	0
Gastro/Intestinal	0	1	0	1
Hearing Disorders	0	0	0	0
Mental Illness	0	1	4	5
Multiple Medical Problems	1	4	0	5
Multiple Sclerosis	0	0	0	0
Muscle/Tissue	0	0	0	0
Nephrology	0	0	2	2
Neurology	1	2	4	7
Orthopedic	2	5	4	11
Other	0	0	1	1
Reflex Sympathetic Dystrophy (RSD)	0	0	0	0
Respiratory	0	1	2	3
Unknown	0	0	0	0
TOTAL	6	15	20	41



STATE OF WISCONSIN
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CORRESPONDENCE MEMORANDUM

DATE: June 2, 2009

TO: Teachers Retirement Board
Wisconsin Retirement Board

FROM: Diane Poole, Director
Disability Programs Bureau

SUBJECT: January – March 2009 Quarterly Disability Annuity Statistics

This memo is for informational purposes only. No Board action is required.

Attached is the Wisconsin Retirement System (WRS) *Disability Benefit Annuity Statistical Report* for January through March 2009. The report provides quarterly data on: number of annuities started, options selected, gender, determination, age, and disability type.

TRENDS

The trends, when compared to the same quarter the past five years, are as follows:

- The number of new disability annuities is lower. The Teachers Retirement Board (TR) had 8 under its jurisdiction, compared to an average of 12; the Wisconsin Retirement Board (WR) had 29 under its jurisdiction, compared to an average of 44.
- The most-selected annuity options under TR and WR jurisdiction were “100% Continued to Named Survivor (Joint Survivor) with 180 Payments Guaranteed.”
- An equal number of males and females applied for the § 40.63 Disability Retirement Annuity benefit for the TR Board. There was one more female than male user of the § 40.63 Disability Retirement Annuity benefit for the WR Board.
- The majority of applications are approved; a very small number are denied.
- The predominant age group for both TR and WR annuities is 51-55.
- The prevalent disability types for the TR Board annuities for this quarter in the last five years are: Cancer, Mental Illness and Neurology. For the WR Board annuities, the prevalent disability types are: Orthopedic, Neurology, and Cancer.

Reviewed and approved by Tom Korpady, Division of Insurance Services.

Signature _____

Date _____

Board	Mtg Date	Item #
TR	6/18/09	6
WR	6/18/09	6

PRIORITIES

The top priority for the Disability Programs Bureau is to approve disability benefits as quickly as possible so individuals are not without income. Approving a disability benefit requires extensive follow-up with the applicant, employer, and health care providers. An application can take up to a year to process because of this inherent dependency on outside sources to provide documentation. The second priority is to maintain existing disability accounts. This requires obtaining the necessary medical and income information, which again requires extensive follow-up with outside sources.

attachment