

**State of Wisconsin
Department of Financial Institutions**



Summary of Changes in 2017 Model Credit Union Bylaws

“Member in good standing” concept removed (Art. III, Sec. 1)

The old bylaws said that only a “member in good standing” could 1) receive notice of membership meetings, 2) vote, 3) serve as a director, or 4) hold credit union accounts. The revised bylaws eliminate the “member in good standing” section, for two reasons:

- The NCUA has issued numerous legal opinions that a federal credit union cannot deprive a member of two fundamental rights – the right to vote at annual or special meetings and the right to maintain a share account – without going through the formal expulsion process. Their analysis seems sound for state-chartered credit unions, as well: They can have policies to deny certain services to members who have caused a loss or created other problems, but short of expulsion, they cannot go so far as to deny any member the basic rights to vote or to hold a share account. The League has warned credit unions that the “member in good standing” concept is a potential “compliance trap.” See The League’s *ii Release No. 0183 – “Denial of Services.”*
- Ch. 186 does not use the term “member in good standing.” There is no sound legal basis for creating a second “class” of members who are not in “good standing.” Someone is either a credit union member or not.

A credit union that has adopted the revised bylaws will need to expel a member to prevent him/her from voting or holding a basic membership share account. The credit union will not be able to treat the person as not being in “good standing.”

All members must be notified of member meetings.

The Bylaws still set minimum qualifications for someone to be elected or appointed as a director in Article V, Section 1.

A provision has been added to make it clear that “a member who is disruptive to credit union operations may be subject to limitations on services and access to credit union facilities.” The League advises credit unions in *ii Release No. 0183*: Before attempting to deny any services to any member for any reason, the credit union’s Board should adopt a written “denial of services” policy, and communicate that policy to members. The credit union should have a separate expulsion policy.

Expulsion process simplified (Art. III, Sec. 5)

The Wisconsin Statutes on credit unions (Chap. 186) were amended in 2016 to simplify the procedures for a credit union’s Board to expel a member. For example, a hearing is no longer

required. The member must be notified of the reasons for the expulsion, and he/she can ask the credit union to reconsider.

The bylaws have been revised to reflect these statutory changes. A credit union must follow the expulsion provisions in its existing bylaws until it adopts revised bylaws, regardless of the change to the Wisconsin Statutes.

Electronic voting is now an option (*Art. V, Sec. 4*)

The bylaws now give credit unions the option to conduct elections of directors electronically. This can be done as an alternative to in-person voting at a member meeting. Mail ballots can still be used as another alternative. Election notices and meeting notices (*Art. IV, Sec. 3*) can be sent electronically, as well.

Note, however, that the electronic voting procedures only apply to director elections. Other issues coming to a vote at a member meeting will require in-person voting. The Wisconsin Statutes (§186.06) briefly address voting, saying “at a meeting, each member shall have one vote irrespective of the member's share total.” In addition, all of the following require the votes of “members present” at an annual meeting or a special meeting:

- §186.02(4)(a): Amendments to the articles of incorporation;
- §186.084(4) & §186.087(1)(d): Votes on indemnifying directors or officers;
- 186.18: Dissolution of the credit union; and
- 186.31: Approval of a merger plan.

“Board Officers” defined (*Art. II, Sec. 5 and Art. VI*)

The old bylaws used the term “Executive Officers,” which was not well-defined. Conflicting uses of these terms caused confusion. In addition, “Executive Officer” is not used in the Wisconsin Statutes on credit unions (Chap. 186).

The revised bylaws now use the term “Board Officers” (as do the NCUA’s model bylaws for FCUs). The term is defined to include the Board Chairperson, Vice Chairperson(s), Board Secretary and Board Treasurer (*Art. II, Sec. 5*).

Article VI defines the duties of the Board Officers. These sections have been re-arranged in a more logical order.

Provisions on Vice Presidents and “officers” clarified (*Art. II and Art. VI, Sec. 8*)

A definition of the term “officer” has been removed from Art. II. The revised bylaws do not define “officers” since its use can vary among credit unions to include, for example, membership officers, loan officers, compliance officers, or others.

The new bylaws address the appointment and duties of “officers” of the credit union. It now clearly states that it is the duty of the President (not the Board) to appoint officers of the credit union, since Wis. Stats. §186.07 says, “The president shall appoint any employee officer.” The revised bylaws say that the President may appoint one or more Vice Presidents “or other officers” and delegate authority to them. (*Art. VI, Sec. 8*)

A provision has been added to state that officers appointed by the president have the authority to represent or bind the credit union (by signing contracts on the credit union’s behalf, for example)

“as delegated by the President”. Finally, if the President’s office is vacant, then the revised bylaws say that the Vice President is to perform duties prescribed “by the Board.”

Board Officer & credit committee compensation added (*Art. V, Sec. 10 and Art. VI, Sec. 9*)

The revised bylaws allow the Board to “authorize compensation for the Board Officers and credit committee members, if any.” This reflects changes made in 2016 to §186.12(3) of the Wisconsin Statutes.

Account withdrawal policy clarified (*Art. VIII, Sec. 3*)

The revised bylaws make it clear that the credit union can restrict the withdrawal of funds “to the extent permitted or required by applicable law and the credit union’s own withdrawal policies.” This avoids potential conflicts between the bylaws and federal regulations on the availability of funds for withdrawal from deposited items, like checks.

Share draft account provisions modernized (*Art. VIII, Sec. 7*)

The old bylaws required a bylaws addendum, approved by the Office of Credit Unions before a credit union could offer share draft accounts. They also referred to such accounts with the archaic terminology: “off-premises member savings withdrawal procedures (share drafts).”

The new bylaws remove the unnecessary requirement for a bylaws addendum and modernize the outdated language. They now say simply: “With the prior approval of the Office of Credit Unions, the Board may permit” members to use share drafts.

Robert’s Rules options available (*Art. XIII, Sec. 3*)

All meetings need to be conducted in accordance with some rules of order. Roberts Rules of Order can be complicated and difficult to understand. The Bylaws now accommodate Boards that prefer to use other rules of order, which may be more modern, streamlined and straightforward. If a Board fails to adopt other rules of order, then Roberts Rules will continue to apply by default.

Miscellaneous changes made

The new model bylaws make a number of fairly minor or technical changes, including these:

- Modernizing awkward or outdated language in various sections.
- Capitalizing “Credit Union” consistently throughout.
- Removing unnecessary material from the “definitions” section. (*Art. II*)
- Adding a provision that organizations may be eligible for membership in a state-chartered credit union whether they are organized under the laws of Wisconsin “or another state.” (*Art. II, Sec. 9*)
- Explaining that someone who terminates his/her membership may be readmitted to membership “if eligible.” (*Art. III, Sec. 3*)
- Replacing references to “tellers” with “tellers of election” – meaning people specially appointed to assist with voting, not credit union tellers generally. (*Art. V, sec. 3* Adding clauses to make clear that Board Officers and credit committee members hold their offices until the earlier of 1) the election of a successor or 2) their death, resignation or removal from office. (*Art. VI, Secs. 1 & 2 and Art. IX, Sec. 1*)

- Clarifying that if the office of Board Chairperson is vacant, then Board Vice Chairperson fills in until the Board fills the position. (*Art. VI, Sec. 4*)
- Deleting outdated examples of accounts that a credit union may offer, such as “Christmas, vacation, education, deferred income, pension, and share certificate accounts.” (*Art. VII, Sec. 1*)
- Eliminating a confusing restriction that only a “qualified” member could be the first named holder of a joint account. A potential member must be “qualified” (i.e., within the CU’s field of membership) to join. Someone must be an actual member, not merely qualified to become a member, to be the first named holder of a joint account. (*Art. VII, Sec. 3*)
- Removing an inappropriate provision that required members to retain their account statements indefinitely. (*Art. VIII, Sec. 5*)
- Revising a provision that gave loan officers discretion on the information to be required from loan applicants. (*Art. X, Sec. 1*)
- Updating the conflict of interest provisions to reflect changes made in 2016 to the Wisconsin Statutes on credit unions. (*Art. XIII, Sec. 2*)

Paul Guttormsson

Vice President of Legal & Compliance

The Wisconsin Credit Union League

N25W23131 Paul Road, Suite 500, Pewaukee, WI 53072-5779

(262) 408-6009 direct, (262) 549-0200 main, (800)242-0833 toll free

(262) 549-7722 fax

pguttormsson@theleague.coop

www.theleague.coop

League services are designed to provide accurate information with regard to the subject matter covered, with the understanding that The League does not render legal services. For specific legal advice, please consult your credit union's attorney.

This document can be made available in alternate formats upon request to qualifying individuals with disabilities