

El Bd. Op. 76-9 (Reaffirmed 5/5/08)

Summary:

Municipal clerks may not leave off the name of the ward when having ballots printed. Candidates may elect not to use their first or middle initials on nomination papers or on ballots. Designations such as “Sr.,” “Jr.,” or “III” may be used on nomination papers or on ballots. (Issued to Harold C. Dobberpuhl, April 21, 1976)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on May 5, 2008. The G.A.B. directed an annotation be added alerting the public that statutory changes subsequent to the opinion’s issuance have superseded the portions of the opinion relating to adding the ward number to ballots after they have been printed. 1985 Wisconsin Act 304. Section 5.55, Stats., now explicitly permits stamping or writing the ward number on ballots after they have been printed. With the addition of the afore-noted annotation, the opinion below fully incorporates the revisions directed by the G.A.B.

Opinion:

You indicate that in order “to save money, but more importantly to insure delivery of the ballots in a reasonable length of time to meet the needs of absentee electors” clerks leave the ward name off the back of the ballots when having them printed. You point out that this then leaves a space on the back of the ballot for the name of the ward to be inserted by use of rubber stamps and provides for greater flexibility as to the number of ballots available for any one ward either for absentee purposes or at the polls. The ward name is then stamped in by the local clerk when an absentee ballot is issued and by the ballot clerks at the polls.

You request the Board's opinion whether this procedure is permissible.

Section 5.55, Stats., in part, provides: “On the back and outside of every paper ballot shall be printed [Emphasis added.] “Official...Ballot” or “Official ...Ballot for ...” followed by the designation of the polling place for which the ballot has been prepared, the date of the election, and the official endorsement and blank certificates in substantially the following form:

OFFICIAL BALLOT FOR ...Ward, ... Adlermanic district, City(Village or town) of ...,
...19 ... Ballot Clerks”

As you note, this section indicates that the ballots should contain “the designation of the polling place for which the ballot has been prepared.” While you point out that the statute “is silent on when this must be done, how it shall be done or who shall do it,” other statutes make it clear that it should be done by the clerk who has the ballots printed and should be done at the time the ballots are printed.

Section 5.66, Stats., states: “(1) For local elections, where necessary, municipal clerks shall have sufficient ballots printed to assure all electors or voting machines a ballot. For all other elections

the municipal clerk shall certify to their county clerk, on the first day of the month in which the primary is held, the approximate number of electors in the district. The county clerk shall total these estimates and order a sufficient supply to assure ballots for every elector.

(2) A sufficient number of sample ballots shall be printed....” (Emphasis added.)

Reading these statutes together, it seems clear that the ballots, when they are printed, should indicate the polling place, which as indicated by §5.55, Stats., should include the name of the ward.

Furthermore, there appears to be no authority for the ballot clerks to designate the name of the ward.

Section 7.35 (1), Stats., states: “GENERAL. Ballot clerks serve only on election days when paper ballots are used. They shall take charge of the official ballots, write their initials on the back of each ballot, fold it in the proper manner to be deposited and deliver to each elector as he enters the voting booth one ballot properly folded and indorsed by 2 ballot clerks. If asked, ballot clerks may instruct any elector as to the proper manner of marking the ballot, but shall not give advice, suggestions, express any preferences or make any requests as to the person for whom or the ballot on which the elector shall vote.”

Nowhere therein are the ballot clerks given the authority to designate the ward name on the ballot.

In addition, there is nothing in §§7.36 or 7.37, Stats., which authorizes the election clerks or inspectors to do so either.

Hence, it is the Board's opinion that it is not permissible for municipal clerks to leave the name of the ward off the ballot when having them printed. Also, ballot clerks have no authority to designate the name of the ward on the ballots.

This opinion, however, speaks only to the normal procedure to be followed. In the event that ballots are not ready for distribution or the supply of ballots becomes exhausted during polling hours, the municipal clerk may provide substitute ballots. Such ballots could be sample ballots or ballots made up by the clerk in substantially the form of the original ballots. §7.15 (6), Stats.

You have also requested the Board's opinion whether a candidate who never uses a first or middle initial (may) elect not to use one on nomination papers or on ballots.

Section 8.15. (5), Stats., provides:

Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, a qualified elector of the ...Ward, ...Aldermanic district, (Town, City, Village) of ... , County of ... , State of Wisconsin, representing the principles of the ...party, do hereby nominate ... , (include first and last name plus middle initial, or initial, middle and last name; the use of an initial for a first or middle name is optional, but no nicknames,

abbreviations or titles), who reside at ...Street, (Town, City, Village) of ... , in the County of ... , and whose postoffice address is ... , Wisconsin, as a candidate for the office of ... , to be voted for at the primary to be held on the...day of ... , 19... , as representing the principles of the above named party, and I declare that I intend to support the candidate named herein.

It is the Board's opinion that this statute permits a candidate to choose not to use his first or middle initial on nomination papers or on ballots.

Finally, you ask the Board's opinion whether a candidate may use “Sr.,” “Jr.,” or “III” behind his name on nomination papers.

Section 8.15 (5), Stats., prohibits the use on nomination papers of nicknames, abbreviations or titles.

It is the Board's opinion that “Sr.,” “Jr.,” or “III” after one's name constitutes a designation rather than nickname, abbreviation or title and, therefore, may be used on nomination papers or on ballots.