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## PARTICIPATION RIGHTS OF THE CHAIRPERSON

**Situation:** When can the chairperson vote? Can s/he make or second motions and/or participate in debate? If the chairperson gets too involved in substantive decision-making, is there a danger that s/he may be too controlling and, intentionally or not, infringe on the rights of other members? Confusion over these issues may lead to unnecessary conflict within a group and, in some cases, inappropriate disenfranchisement of the chairperson. Moreover, if the chairperson is denied the rights of expression, constituents may not become aware of his/her position on important issues. A clear understanding of the chair's rights of participation is necessary for a fair and orderly decision-making process.

**The fundamental rights of the chairperson:** *If the chairperson is a member of the group, s/he has the same rights of participation as any other member.* This includes the rights to vote on motions, participate in discussion, and may make and second motions. However, there may be some restrictions on how those rights are exercised.

**When is the chairperson not a full member of the group?** The most obvious situation is the mayor-council relationship in city government. Sec. 62.11(1), *Wis. Stats.* While the statutes state that the mayor is a member of the common council, the mayor is not counted for quorum purposes. The mayor normally presides and may vote only in the case of a tie. In other groups there may be unusual situations in which a non-member (e.g., a staff person) presides over the discussion of a particular matter. [NOTE: This is not a recommended practice and should be reserved to instances in which a useful purpose is clearly served.]

**What kind of restrictions may be imposed on the chairperson's rights to vote?** The most common restrictions are self-imposed. The chairperson, like any other member, may choose not to vote – i.e., abstain – on any issue.

Although the group cannot deny the chairperson the right to vote, it could conceivably provide that his/her name be called last in a roll call vote. This provision is not required; one plausible reason for it is the perception that the chairperson's vote could affect the votes of subsequent members.

The voting rights of mayors in the mayor-council setting is restricted by statute. The mayor may (but need not) vote when the vote is otherwise tied. In other words, the mayor's vote may enable a measure to pass or to be clearly defeated but the mayor may not vote when his/her vote would create a tie or otherwise deny the necessary proportion of group approval for passage. If the

mayor opposes a measure that is favored by the council, s/he is expected to veto it, giving the council the chance to over-ride.

***What kind of restrictions may be imposed on the chairperson's rights to move or second motions and enter into the discussion?*** A chairperson may be required to "vacate" the chair - that is, turn the chairing duties over to someone else - in order to make or second motions or participate in discussion. Of course, the chairperson may also do this voluntarily.

The practicality of vacating the chair often depends on the size of the group. In very small groups such as three, five, or even seven member town or village boards, such a practice would most likely be cumbersome and unwarranted. In larger groups where a greater degree of formality is desirable, vacating may be the best way to separate a chairperson's partisan position on an issue from his/her impartial administration of the deliberations.

It is much better that the group's expressed rules provide for vacating the chair rather than the group "ordering" the chairperson to vacate on a case-by-case basis. If the rule is in place but its application is unnecessary in a given situation, the rule can be waived by the informal process of unanimous consent or by the formal motion to suspend the rules.

When the chair is vacated, the chairperson's rights of participation are the same as those of any other member. (For example, any rules such as limits as to the time or number of statements would apply to the vacated chairperson as they would to other members.) Upon vacating, the chairperson is not permitted to resume the duties of presiding until the issue pending at the time of vacating is no longer before the group.

The group cannot deny the chairperson the right to make or second motions or enter into the debate. The chairperson must be permitted to vacate or be allowed to participate while presiding.

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