

Form of name on ballot. A candidate other than a married person using a formal legal surname as a middle name is precluded from appearing on the ballot with full first and middle names. Secs. 7.08 (2)(a), 8.10 (3), 8.20 (2)(a), and 8.15 (5), Stats. (Issued to Ralph Adam Fine, October 18, 1978)

You have requested the opinion of the Board on the question of whether you may appear on nomination papers and on the ballot for a judicial office under the name of "Ralph Adam Fine."

The statutory form of a candidate's name for nomination papers is identical to that for the ballot. For nonpartisan and independent candidates, pertinent statutes provide: "any combination of initials for the first and middle names, plus the last name, but no nicknames, abbreviations or titles;....". ss. 8.10 (3), 8.20 (2)(a), and 7.08 (2)(a), Stats. The question you raise is whether that language should be construed to allow you to appear with full first and middle names.

Taken alone, the words of the statute are not clear enough to compel an answer either way. However, the failure of the legislature to authorize "any combination of first and middle names" in addition to "any combination of initials" for those names implies an intent to avoid allowing the use of a full first name and a full middle name. Related statutes and statutory history support that construction.

The ballot form for the names of partisan candidates is presumably identical to that contemplated for independent and nonpartisan candidates, and is somewhat more clear: "...first and last name plus middle initial, or intial, middle and last name; the use of an initial for a first or middle name is optional...." s. 8.15 (5), Stats.

The language preceding the semi-colon here clearly contemplates only two alternative forms for the first and middle names: a first name and middle initial (John A. Smith) or a first initial and middle name (J. Abner Smith). The subsequent "initial...optional" language simply supplements the prior phrase; it allows the candidate to appear without either "initial" referred to in the prior phrase (John Smith, Abner Smith) or at the candidate's option, to substitute initials for both first and middle names (J.A. Smith). The "initial...optional" provision does not authorize use of a full first and full middle name. If the drafters had so intended they would have explicitly provided for the use of a full first and a full middle name in the same explicit manner in which they authorized a "first and last name plus middle initial, or initial, middle and last name."

Statutory history supports a conclusion that the use of full first and middle names is not contemplated by the statute. Section 7.08 (2) was not intended to change the substance of its predecessor, sec. 5.08 (1), enacted in Chapter 554, Laws of 1959. The pertinent language of that section was identical to that quoted above from current sec. 8.15 (5). The legislative session which provided that a candidate's name shall appear with a "first...name and middle initial or initial (and) middle...name" also provided the "initial...optional" clause. The former phrase clearly indicates an intent to preclude a candidate from using a full first name and full middle name. It is unlikely that the legislature intended the next clause to undo that intent.

You assert that you are generally known as "Ralph Adam Fine," and to prevent you from appearing with full first and middle names would cause voter confusion, a result inconsistent with the general intent of the election laws. While the Board recognizes the significance of this argument, we do not feel that it requires the decision you seek. As indicated heretofore, the legislature apparently intended to preclude the use of full first and middle names on the ballot, except for a married person using a former legal surname as a middle name. These restrictions are a proper exercise of the legislature's authority to regulate the ballot, directed toward ensuring ballot economy and uniformity of style.

Section 5.01 (1) mandates construction of election laws in a manner which will avoid sacrificing the franchise to technical requirements; it does not direct or allow an election official to ignore statutes which pose no significant threat to the exercise of the franchise. State ex rel. Ahlgrimm v. State Elections Board, 82 Wis. 2d 585, (1978). The name requirements challenged here pose no such threat. There is no claim that another candidate whose name is identical to or similar to yours will appear on the ballot. The statutes provide you with the option of appearing as "Ralph A. Fine," "R. Adam Fine," "Ralph Fine," "Adam Fine," or "R. A. Fine." There is no reason to believe that voters would fail to identify you with any of these names.

Accordingly, the Board concludes that your name may not appear on the ballot as "Ralph Adam Fine."