



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 02-148

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 October 2002.]

2. Form, Style and Placement in Administrative Code

a. Section 1.02 and Part 2 of the Manual should be carefully reviewed with respect to arrangement of a rule-making order and the promulgation procedure inasmuch as the general format of the rule is incorrect, including the following:

(1) The rule-making order requires an introductory clause consisting of a relating clause stating the subject matter of the proposed order and an enumeration of the sections treated by the proposed order. [s. 1.02 (1), Manual.] The entirety of ss. HEA 5.04 and 5.05 should not be included in the proposed rule. Rather, only the provisions that are affected should be included. It appears that the introductory clause should indicate that the Wisconsin Higher Educational Aids Board (HEAB) proposes an order to amend s. HEA 5.04 (1) (a) and (b) and (2) (d) and (f), relating to the Talent Incentive Program (TIP) grant.

(2) An analysis explaining the proposed changes should be included. [s. 1.02 (2), Manual.] This should include a reference to the “statutory authority” and the “statute interpreted.” [See s. 1.02 (2) (a), Manual.]

(3) It may be useful to include an initial applicability clause to indicate that the new proposed rule applies to applications for a TIP grant made on or after a specified date. [See s. 1.02 (3m), Manual.]

(4) An effective date clause must be included. [See s. 1.02 (4) (a), Manual.]

(5) A fiscal estimate is required, as noted in s. 1.02 (7) (a), Manual. The fiscal estimate should have been submitted to the Legislative Council's Rules Clearinghouse for review with the rule. [See s. 1.02 (7) (d), Manual.]

(6) The letter to the Director of the Legislative Council Rules Clearinghouse indicated that a copy of the rule also was being submitted to the Revisor of Statutes and the Department of Administration (DOA) as provided in s. 227.15, Stats. However, s. 227.15, Stats., does not require submission of the rule to the Revisor or DOA at this point. Rather, s. 227.14 (4m), Stats., requires that the agency send to the Revisor and DOA a copy of the notice that it has provided a proposed rule to the Legislative Council staff. The requirements of that notice are listed in s. 2.01 (3), Manual. In particular, information about any public hearing is typically included in that notice.

b. Slashed alternatives should not be used. [s. 1.01 (9) (a), Manual.] This comment applies to the following:

(1) In s. HEA 5.04 (1) (b), "TANF/W-2" should be changed to "TANF or W-2", if those acronyms were defined. It appears that the reference to TANF or W-2 is appropriate since some American Indian tribes provide TANF benefits, rather than W-2 benefits. Also, there is no definition of TANF or W-2 in ch. HEA 5. These acronyms must be defined if they are to be used. [s. 1.01 (8), Manual.] Since it appears that each term is used only once in ch. HEA 5, the terms should be written out, rather than using the acronyms.

(2) In s. HEA 5.04 (2) (d), "and/or" should be changed to "or".

(3) In s. HEA 5.04 (2) (f), it appears that "and/or" should be changed to "and or". (This change would necessitate changing the remainder of the sentence so that there is subject and verb agreement.)

c. The formatting of the subsection titles and numbering is incorrect. [See s. 1.05 (2) (c), Manual.] For example, the subsection number should be "(1)", rather than "1.", and the paragraph letter should be "(a)" rather than "a."

d. In s. HEA 5.04 (2) (d), the capitalization should be carefully reviewed inasmuch as state departments or agencies, other than the University of Wisconsin System, are not capitalized. [s. 1.01 (4), Manual.]

e. In s. HEA 5.04 (2) (d), the reference to the "Americans with Disabilities Act" definition should be changed to cite the U.S. Code reference. [s. 1.07 (3) (a), Manual.] If the board wishes to include a reference to the Americans with Disabilities Act, this could be done in a note.

f. Section HEA 5.04 (intro.) indicates that to be eligible "for an initial grant award" certain criteria must be met. The title of s. HEA 5.04 indicates that the section concerns TIP.

However, titles to any unit of a rule are not part of the substance of the rule itself. [See s. 1.05 (1), Manual.] Therefore, the actual reference to the TIP grant should be included in the substance of the rule. For example, s. HEA 5.04 (intro.), could be amended to read: “To be eligible for an initial talent incentive program grant award,”

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

Section HEA 5.04 (2) (d) refers to the “Special Needs or Disabilities Office on Wisconsin college or university campuses.” Unless an office will always have that specific name, there may be some ambiguity. Would it be more useful to refer to such an office in a more generic manner?