



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 05-107

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 January 2005.]

1. Statutory Authority

Section TCS 17.03 (2) provides that the technical college system board must approve grant guidelines that may be updated as needed. The guidelines will contain application instructions, requirements and procedures, application deadline dates, allowable uses of funds, and award limits. To the extent that any of the guideline requirements meet the definition of the term “rule” in s. 227.01 (13), Stats., they must be promulgated as administrative rules. The rule-making process may not be evaded through the use of agency guidelines or manuals. See, also, the use of the phrase “allowable activities” in s. TCS 17.04 (2).

2. Form, Style and Placement in Administrative Code

a. The use of capitalization in the definition section and elsewhere in the rule is inconsistent. See s. 1.01 (4), Manual.

b. See s. 1.02 (4) for the proper form for drafting the effective date provision.

c. In s. TCS 17.04 (2) (b), the word “their” should be replaced by “its.” Also, the numbering of the paragraphs should be corrected. Finally, the use of the phrase “and or” should be replaced by the word “or.”

d. In s. TCS 17.06 (3), the notation “s.” should be inserted before the cross-reference. [See, also, s. TCS 17.07 (1).]

e. Section TCS 17.07 does not create two or more subunits. Consequently, the notation “(1)” should be deleted.

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

a. In s. TCS 17.01, the word “under” should precede the statutory cross-reference.

b. The rule contains limited details on the parameters of the grant program. For example, there are no minimum or maximum grant awards specified, and no provisions on business eligibility or on length of contracts or grants. Reliance on future board “guidelines” under s. TCS 17.03 (2) may not be consistent with s. 227.10, Stats., which requires general agency policies to be promulgated as a rule.

c. Section TCS 17.05 (1) is drafted in an awkward manner. Is the provision intended to assess whether the grant, if approved, is adequate to achieve its objectives? If so, this could be stated in a clearer fashion.

d. Section TCS 17.07 has requirements for district reporting; is there a need for businesses assisted by the grant to also file or submit reports?

e. The board may wish to consider whether there is a need for the grant proposal to include a means by which the “success” of the grant is to be measured. If so, this could be added to the list of provisions included in the application for the grant.

f. It is not clear whether grants can be approved for an amount less than the amount requested. If it is expected that this might happen, s. TCS 17.05 (intro.) could be amended to provide for “approval or disapproval, *in whole or in part*, ...” to clarify the scope of the board’s authority.