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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 07-083

#### 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

The cited statutory authority, s. 45.20 (2) (f), Stats., requires the Department of Veterans Affairs (DVA) to promulgate a rule establishing the number of days, after the commencement of an academic term, by which a veteran seeking tuition reimbursement must file a pre-application with DVA that includes (among other things) “an estimate of the amount of reimbursement the veteran will claim at the end of the academic term.” [“Academic term,” while not defined, is used interchangeably with “semester” in s. 45.20, Stats.] The pre-application provision was enacted in the 2005-07 Biennial Budget Act and DVA has since promulgated a rule providing that the pre-application must be filed within 30 days of the commencement of the semester. Clearinghouse Rule 07-083 proposes to extend that time period to 180 days from the beginning of the semester. The rule analysis indicates that the change will allow the department to address pre-application issues for veterans who are returning from deployment and are unable to submit pre-applications within the 30-day period specified in the current rule.

However, this change does not appear to comport with the statute and does not make sense from a practical or a budgetary standpoint. In requiring an “estimate” of the amount of tuition reimbursement the veteran “will claim at the end of the academic term,” the statute clearly contemplates that the pre-application setting forth the estimated reimbursement is to be filed sometime *during* the semester, while the actual application is to be filed once the semester has been completed. That sequence of events would be readily accomplished within the current rule’s 30-day time frame, as a conventional semester would exceed 30 days. However, this is

not necessarily accomplished if the time frame is extended to 180 days, which could come long after the semester ends. In fact, with a 60-day deadline [in s. 45.20 (2) (c) 2.a., Stats.] following completion of a semester for filing the application for reimbursement, the 180-day provision could have the illogical result of a student not being required to file the pre-application until *after* the time when the actual application is due.

Even if one concludes that s. 45.20 (2) (f), Stats., does not *preclude* submission of the pre-application as late as 180 days after the semester begins, it is neither practical, nor consistent with legislative intent, to extend the time frame so considerably. From a practical standpoint, how is it possible, as DVA suggests, that a student can be enrolled during, and intend to claim tuition reimbursement for, a semester in which he or she is just returning from deployment and is unable to file the pre-application 30 days into the semester? And how does DVA justify extending the pre-application period in a way that defeats the Legislature's intent in enacting the requirement, which was to improve tracking of program costs by requiring a veteran to declare his or her intent to seek reimbursement under the program upon completing coursework? [Legislative Fiscal Bureau Budget Paper #802, May 25, 2005].

The department could consider retaining the 30-day time period for receipt of the pre-application with language that DVA may accept a pre-application within 60 days if the student shows good cause for the delay. This is consistent with the good cause extension for the actual application for reimbursement provided for in s. 45.20 (2) (c) 2. a., Stats.

## **2. Form, Style and Placement in Administrative Code**

The rule preface should follow the format provided in s. 1.02 (2) (a), Manual.