



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-130

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

a. Section 7.41, Stats., provides that the Government Accountability Board (GAB) may promulgate rules regarding the proper conduct of observers at polling places, municipal clerks’ offices, or alternative sites under s. 6.855, Stats. The proposed rule addresses observer conduct at central counting locations, absentee ballot canvass locations, absentee voting locations under s. 6.875, Stats., and recount locations. Further, the proposed rule addresses the conduct of disability advocate observers who assess compliance with s. 5.25 (4) (a), Stats. The GAB might explain its authority to govern conduct of observers at the locations not described in s. 7.41, Stats.

b. Section 12.03 (4), Stats., defines “electioneering” as any activity which is *intended to influence voting* at an election. Section GAB 4.01 (16) provides that conversation with election officials or other electors concerning a candidate, party, or question appearing on the ballot is electioneering. The GAB might consider providing, instead, that conversation with election officials or other electors concerning a candidate, party, or question appearing on the ballot, *if the conversation is intended to influence voting at the election*, is electioneering.

2. Form, Style and Placement in Administrative Code

a. In the introductory clause, “Wis. Adm. Code” should be removed. [s. 1.02 (1), Manual.]

b. In the plain language analysis of the rule summary, the agency should include a more detailed analysis of the proposed rule.

c. SECTIONS 1 and 2 should be combined into one SECTION that repeals and recreates ch. GAB 4. SECTION 3 should be renumbered as SECTION 2. [s. 1.04, Manual.]

d. A period should be inserted at the end of the section titles in the proposed rule. [s. 1.05 (2) (b), Manual.]

e. Because the definitions in s. GAB 4.01 (1) apply to the entire chapter, and not just to s. GAB 4.01, the agency should include the definitions in a separate section numbered s. GAB 4.01, at the beginning of the chapter. [s. 1.02 (3), Manual.] The subsequent sections could then begin with s. GAB 4.02.

f. In s. GAB 4.01 (16), “The” should replace “Such”.

4. Adequacy of References to Related Statutes, Rules and Forms

a. Throughout the proposed rule, should “GAB” replace “EB” when referring to the Inspectors’ Statement Form and Challenge Documentation Form?

b. Throughout s. GAB 4.01, “sub. (9)” should replace “sub. 9”, “sub. (10)” should replace “sub. 10”, and sub. (16) should replace “sub. 16”. [s. 1.07, Manual.]

c. In s. GAB 4.01 (8), “ch. GAB 9” should replace “Chapter GAB 9, Wis. Adm. Code”. [s. 1.07, Manual.]

d. In s. GAB 4.01 (12), “6.36 (4)” should replace “6.35 (4)”.

e. In s. GAB 4.03 (4), “GAB” should replace “gab”.

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

a. In the statutory authority section of the rule summary, “and” should be inserted before “227.11 (2) (a), Stats.”

b. In the explanation of agency authority section of the rule summary, “s. 6.855” should not be underlined.

c. Throughout the proposed rule, “may not” should replace “shall not.” [s. 1.01 (2), Manual.]

d. In s. GAB 4.01 (1) (f), “s. 6.855” should not be underlined.

e. In s. GAB 4.01 (1) (g), “include” should replace “includes”, and a comma should be inserted after “s. 6.79”.

f. In s. GAB 4.01 (2), the third sentence should be replaced with the following: “An observer shall also list the observer’s full name, street address and municipality, and the name of the organization or candidate the observer represents, if any, on the form”.

- g. In s. GAB 4.01 (12), a comma should be inserted after “s. 5.35 (5)”. [s. 1.07, Manual.]
- h. In s. GAB 4.05 (1), “2” should replace “two”. [s. 1.01 (5), Manual.]
- i. In s. GAB 4.06 (1), a comma should be inserted before “including”.
- j. In s. GAB 4.07 (2), it appears that “or” should replace the first “the” on the last line.
- k. In s. GAB 4.08 (6), “their” should be removed.