



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-012

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 December 2014.]

1. Statutory Authority

a. To ensure consistency with s. 118.134 (1m) (a) 2., Stats., consider modifying the definition of the term “agreement” in s. PI 45.02 (1) and the requirement in s. PI 45.03 (3) to clarify that a federally recognized American Indian tribe entering into an agreement must have “historical ties to this state”.

b. Consider modifying s. PI 45.03 (3) to include the requirement under s. 118.134 (1m) (a) 3., Stats., that the use that has been approved under an agreement is the use to which the school resident objects in the complaint.

c. Section 118.134 (2), Stats., specifies that a complainant has the burden of proving certain facts by clear and convincing evidence. Section PI 45.03 (1) should be expanded to specify what information regarding the nature of, and evidence supporting, a complaint, if any, must be submitted as part of a complaint filed under s. 118.134 (1), Stats.

d. In s. PI 45.03 (3), “10 business days” should be replaced with “10 days” to be consistent with s. 118.134 (1m) (a) (intro.), Stats.

2. Form, Style and Placement in Administrative Code

The agency should consider amending, repealing, and creating text in ch. PI 45, rather than repealing and recreating the chapter, because much of the text in the current chapter is retained. A drawback of repealing and recreating rule provisions is that changes to existing text are not shown. [s. 1.065, Manual.]

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

In s. PI 45.01 (2), “this provision” should be replaced with “s. 118.134, Stats.” [s. 1.07 (1) (a), Manual.]

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

a. Because much of the definition of “agreement” is restated in s. PI 45.03 (3), consider removing the definition of “agreement” and incorporating the remaining components of the definition in s. PI 45.03 (3).

b. In s. PI 45.02, several terms are defined by incorporating references to statutory provisions. Those definitions should be modified to read as follows: “[Term] has the meaning given in s. _____, Stats.” [s. 1.01 (7) (d), Manual.]