



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 17-053

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. The department should consider adding references to s. 20.907 (5) (b), Stats., and to ch. 34, Stats., to both its list of statutes under the statutory authority section of the proposed rule and to its explanation of agency authority, specifically regarding changes made to ch. PI 20. Section 20.907 (5), Stats., specifically states that all money received by any officer or employee of a state agency by virtue of the office or employment must be deposited with the Department of Administration, unless the money is received by a state agency incident to an authorized activity and the agency promulgates a rule prescribing the procedures for the deposit of the money, in conformity with ch. 34, Stats. This appears to be a more direct statement of agency authority to promulgate a rule than s. 227.11 (2) (a) (intro.), Stats.

b. The department should also consider adding a reference to s. 118.045 (3), Stats., to the list of statutes under the statutory authority section because s. 118.045 (3), Stats., requires the department to promulgate rules.

c. The department may remove citations to ss. 115.52 (2) and (6) and 115.525 (2) and (6), Stats., from the list of statutes under the statutory authority section of the proposed rule because the specific statutes cited do not confer rule-making authority; rather, the statutes cited are interpreted.

d. When referencing s. 227.11 (2) (a) (intro.), Stats., in the explanation of agency authority, the department should clearly explain why rules are necessary to effectuate the purposes of the interpreted statutes. For example, perhaps a rule is necessary to establish or to establish and

effectively administer rather than only “effectively administer” the criteria for leasing certain space under ch. PI 12. Likewise, perhaps a rule is necessary to establish and effectively administer the procedures for handling money under ch. PI 20.

2. Form, Style and Placement in Administrative Code

a. Under the explanation of agency authority, in the second-to-last line of the second paragraph under ch. PI 12, the department should insert an additional “s” before the reference to “s. 115.52 (6) and 115.525 (6), Stats.”.

b. Under the explanation of agency authority, in the last line of the paragraph under ch. PI 18, the department should delete one “s” from the citation so that it reads as “s. 118.33 (2) and (4)”.

c. In SECTION 3, the department proposes to modify s. PI 12.01 (1), which is divided into subunits consisting of a series of items. In general, such a structure begins with introductory material that ends with a colon. The introductory material is followed by subunits that each end with a period. Each subunit should individually form a complete sentence when read together with the introductory material. As currently drafted, s. PI 12.01 (1) does not follow this format. Instead, the introductory material reads as a complete sentence when read with all of the subunits together, rather than individually and the subunits end with commas. The department should take the opportunity to reformat s. PI 12.01 (1) so that it conforms to drafting convention. [s. 1.03 (3) and (4), Manual.]

d. Under SECTION 8, in the note, the inserted federal statutory citation should be moved to the end, following the stricken citation to the federal administrative code. When inserted material replaces stricken material, it should be inserted at the end of all of the stricken material. [s. 1.06 (1) (a), Manual.]

e. Under SECTION 8, the department proposes to modify s. PI 20.04, which is divided into subunits consisting of a series of items, but it does not follow the required format. As discussed under comment “c” above, the department should consider taking the opportunity to reformat s. PI 20.04 so that it conforms to drafting convention. [s. 1.03 (3) and (4), Manual.]

f. Under SECTION 9, the ellipsis between s. PI 27.03 (1) and s. PI 27.03 (3) (a) may be deleted. Two or more subsections of the same section that are affected by the same treatment may be included in the same SECTION, even if the intervening subunits are unaffected. An ellipsis is not necessary to show that there are unaffected intervening subunits. [s. 1.04 (2) (a) 4., Manual.]

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

a. Under the summary of factual data and analytical methodologies section, in the fifth-to-last line of the paragraph regarding ch. PI 12, the department should insert a comma after “ss. 115.52 (2) and 115.525 (2), Stats.”.

b. Under the summary of factual data and analytical methodologies section, in the second-to-last line of the paragraph regarding ch. PI 18, the department should change “clarify” to “clarifies”.

c. In SECTION 3, under s. PI 12.01 (7), it appears that the department overlooked one instance of “school” which should be changed to read as “program or center”.

d. In SECTION 4, the cross-reference to “sub. (5)” may be deleted because sub. (5) is repealed under SECTION 5.

e. Under SECTION 7, in the definition created for FCCLA, “careers” should instead be “career”.

f. Under SECTION 7, the department defines HOSA to mean “health occupations students of America”. The department should review this definition to ensure that it is the most updated name for HOSA. It appears that the name may have been changed to “HOSA-Future Health Professionals”.

g. Under SECTION 8, the department inserts references to “SkillsUSA” into lists of organizations for which the department has created definitions. The department should consider also creating a definition for SkillsUSA.

h. Under SECTION 8, in the note, spaces should be inserted into the federal statutory citation so that it reads “20 USC 2344 (c) (4)”. [s. 1.07 (3), Manual.]