



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-001

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

The department should consider adding s. 48.975 (4m), Stats., to the plain language analysis list of statutory authority, as that provision is described under “Explanation of Department Authority” and contains explicit rule-making authority. As an alternative, simply list s. 48.975, Stats., in the plain language analysis list of statutory authority to match what is included in s. DCF 50.01 (2) of the rule text.

2. Form, Style and Placement in Administrative Code

a. The rule repeals ch. DCF 49, relating to juvenile intake worker training. Should the relating clause mention this, as repeal of this chapter does not relate to facilitating public adoptions, adoption assistance, or preadoption training?

b. The “Summary of the Proposed Rule” part of the plain language analysis could elaborate on why ch. DCF 49 is “obsolete”.

c. The department should consider modifying the definition of “Adoption information exchange” in s. DCF 50.02 (4) to remove the alternative definition of “exchange” for consistency and change each instance within the rule text that uses “exchange” to “adoption information exchange”. Retaining “exchange” as an alternative definition for “adoption information exchange” creates potential confusion with reference to the “national adoption exchange” under s. DCF 50.09 (2) (a) 3. c.

d. There are two subsections numbered s. DCF 50.05 (8). The department should renumber the second use as s. DCF 50.05 (9) and then renumber the remaining subsections and references to subsections within that section accordingly. The reference to “s. DCF 50.05 (9) (d)” in s. DCF 50.06 (1) should remain unchanged as it appears it already refers to the second usage of s. DCF 50.05 (8) that needs to be renumbered as s. DCF 50.05 (9).

e. The treatment of s. DCF 50.05 (6) (h) 2. and 3. does not fit within the series of items listed under s. DCF 50.05 (6). The department should consider renumbering s. DCF 50.05 (6) (h) 1. as s. DCF 50.05 (6) (h) (intro.) and then renumbering s. DCF 50.05 (6) (h) 2. and 3. as s. DCF 50.05 (6) (h) 1. and 2, with additional material to properly introduce those provisions. [s. 1.03 (3), Manual.]

f. Treatment of s. DCF 50.07 (1) (a) should be moved to a new line.

g. The material after s. DCF 50.14 (3) (b) should be marked as a Note.

h. Section DCF 50.14 (4) includes introductory material that sets out a series of the items the department shall do. Consider subdividing the material in s. DCF 50.14 (4) (a) relating to what the department may do if the department determines that additional information is needed to make a determination, as that material does not fit within the original series of items.

i. Section DCF 50.17 (3) (d) makes reference to “par. (b) 2.,” but there is no par. (b) 2. in this section.

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

a. Under the “Facilitating Public Adoptions” section of the “Summary of the Proposed Rule”, change the word “meeting” to “meetings” in the first sentence of the second paragraph for clarity and to match the requirement of the rule text.

b. The “Required Training for Prospective Adoptive Parents in an Intercountry Adoptions” section of the “Summary of Related Federal Law” should be changed to say “Adoption” instead of “Adoptions”.

c. The definition of “Division of hearing and appeals” in s. DCF 50.02 (10) should be modified for clarity as it could be interpreted to mean any division within the Department of Administration.

d. Should the definition for “proposed adoptive parents” in ss. DCF 50.02 (25) and 51.02 (5) include language to clarify what entity must identify the individual or married couple as prospective adoptive parents for a specific child?

e. Section DCF 50.05 (2) should be changed to say “if any of the following conditions are met” instead of “if all of the following conditions are met” because it appears prospective adoptive parents could not be simultaneously approved, exempt, and expedited.

f. Section DCF 50.05 (8) (a) relating to “Exceptions” says that “A public adoption agency may approve a home study for a public adoption for an applicant that does not meet a qualification in sub. (7) that is a nonstatutory requirement”, but does not identify which qualifications in sub. (7) are nonstatutory. More detail should be included so public adoption agencies know when the exceptions apply.

g. The introductory material in s. DCF 50.09 indicates that the “department shall determine if all of the following conditions are met before entering into an agreement to provide adoption assistance for a child”, but the subsequent subsections do not read like a series of conditions the department could determine are met. The department should consider reorganizing this section to place the “exceptions” under s. DCF 50.09 (3) outside of the series of conditions that must be met.

h. Section DCF 50.12 (3) (b) 4. a. uses the term “Runaway”. The department should consider changing it to “Run away” for consistency with s. DCF 50.12 (3) (b) 2. a. and 3. a.