



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 21-104

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. In the caption for the proposed rule, the listing of repealed provisions should be revised to appear as “DOC 328.04 (3) (e), (j), (k), and (o)”. [s. 1.01 (1) (Example), Manual.]

b. The department could consider combining SECTIONS 2, 3, and 4 of the proposed rule into one SECTION. When two or more subunits of the same rule section are affected by the same treatment, and any intervening subunits are unaffected, they may be included in the same SECTION of the proposed rule. [s. 1.03 (2) (c) 2., Manual.]

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

a. The department’s plain language analysis should add sufficient detail to enable the reader to understand the content of the rulemaking order, its relationship to current law, and the changes made in existing rules. [s. 1.01 (2) (b), Manual.] In relation to one aspect, the plain language analysis states only that the rule repeals various administrative code provisions “to remove outdated or potentially onerous rule sections”. With respect to an additional provision, the analysis states that the rule “Amends Wis. Admin Code s. DOC 328.04 (3) (d) to simplify the provision in an effort to increase offender compliance”. This description should be revised for a reader to understand, from this analysis, that the proposed rule eliminates certain standard rules of community supervision and modifies an additional standard rule of community supervision. A reader should be able to understand, from the analysis, which standard rules of community supervision the proposed rule would eliminate or why the department has determined these standard rules are “outdated or potentially onerous”. Similarly, a reader should be able to understand how, why, or with what, the proposed change to s. DOC 328.04 (3) (d) would “increase offender compliance”.

b. The department’s proposed change to s. DOC 328.04 (3) (d) should be revised to form a grammatically coherent statement. The proposed rule inserts the words “cooperate with” into this rule section, but also strikes references to “the department” and does not replace these references with any other entity with whom the offender shall “cooperate with”. As drafted, the proposed rule would direct an offender to “cooperate with ... opportunities for programming”. An

offender could conceivably cooperate with the department, an agent, or some other entity or person, but not with an opportunity.