

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Jane R. Henkel,
Acting Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 99-167

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. Each provision of the text in the rule should be preceded by the agency's unique prefix and section number. For example, after the treatment clause of SECTION 1, the text should be preceded by "ER-MRS 6.08 (2)." Also, in this subsection, the notation "par." should be replaced by the notation "sub."

b. In s. ER-MRS 6.08 (3), the first word of each paragraph should begin with a capital letter and each paragraph should conclude with a period.

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-167

AN ORDER to amend ER-MRS 6.08 (2); and to create ER-MRS 6.08 (3) and 11.04 (1) (h), relating to release of examination information and removal of names from employment registers.

Submitted by **DEPARTMENT OF EMPLOYMENT RELATIONS**

12-20-99 RECEIVED BY LEGISLATIVE COUNCIL.

01-11-00 REPORT SENT TO AGENCY.

RS:DF;jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



State Senator
James R. Baumgart

State Capitol: P. O. Box 7882, Madison, WI 53707-7882 • Telephone (608) 266-2056
Toll-free: 1-888-295-8750 • E-Mail: sen.baumgart@legis.state.wi.us

April 18, 2000

TO: Members of the Senate Labor Committee

Senator Russell Decker
Senator Roger Breske

Senator David Zien
Senator Margaret Farrow

FROM: Senator Jim Baumgart, Chair

Re: Clearinghouse Rule 99-167

The following rule was referred to the Committee on April 11, 2000.

CLEARINGHOUSE RULE 99-167 - Relating to release of examination information and removal of names from employment registers.

Submitted by the Department of Employment Relations Commission

Enclosed is a copy of the rule. If you have any concerns or questions about the rule or want a public hearing on the rule, please advise immediately.

cc: Dan Fernbach, Legislative Council Attorney

State of Wisconsin

Tommy G. Thompson
Governor

Peter D. Fox
Secretary



345 West Washington Avenue
P.O. Box 7855
Madison, WI 53707-7855
Voice (608) 266-9820
FAX (608) 267-1020
TTY (608) 267-1004

DEPARTMENT OF EMPLOYMENT RELATIONS

April 7, 2000

Senator Fred Risser, President
Wisconsin State Senate
State Capitol, Room 220 South
Madison, WI 53703

Attention: Donna Doyle
1 East Main St.
Suite 501
Madison, WI 53703

Dear President Risser:

In accordance with s. 227.19 (2), I hereby submit three copies of the final draft form of Clearinghouse Rule 99-167, relating to release of examination information and removal of names from employment registers for your referral to the appropriate standing committee of the Senate.

Sincerely,

A handwritten signature in black ink that reads "Robert Lavigna".

Robert Lavigna, Administrator
Division of Merit Recruitment and Selection

ORDER OF THE ADMINISTRATOR
OF THE DIVISION OF MERIT RECRUITMENT AND SELECTION
OF THE DEPARTMENT OF EMPLOYMENT RELATIONS
ADOPTING RULES

To amend ER-MRS 6.08 (2) and to create ER-MRS 6.08 (3) and 11.04 (1) (h), relating to release of examination information and removal of names from employment registers.

ANALYSIS PREPARED BY DEPARTMENT OF EMPLOYMENT RELATIONS

This rule order is intended to give hiring managers additional information when interviewing certified candidates for a position and to facilitate the interview for candidates. Currently the Division of Merit Recruitment and Selection may not release narrative information supplied by candidates on examinations to hiring managers. Such information as details of a candidate's qualifications or experience, answers to essay questions, resumes when submitted in competition for a position are considered examination information that is confidential under ER-MRS 6.08 (2). Candidates may assume that the hiring manager has this information and neglect to offer it again.

This new section in ER-MRS 6.08 would permit the Division to pass on to hiring managers candidate information gathered in the examination phase of the recruitment.

The amendment to ER-MRS 11.04 (1) is also intended to facilitate the interviewing of potential candidates for positions. This change will allow the Administrator of Merit Recruitment and Selection to remove an individual from the list of qualified candidates for a position if the individual fails to appear for an agreed interview without giving a valid reason. This change will allow the Administrator to clear obviously disinterested individuals from the list and facilitate certifying *interested* candidates.

The statutory authority for these rule changes is found in the following:

1. S. 230.05(5), Stats., grants the Administrator of the Division of Merit Recruitment and Selection general authority to promulgate rules on provisions for which the administrator has statutory responsibility.
2. The specific statutory authority to examine the qualifications of applicants for positions in the civil service is found in s. 230.15(1).
3. S. 230.17 grants the Administrator authority to refuse certification to a candidate.

TEXT OF PROPOSED RULE

SECTION 1. ER-MRS 6.08 (2) is amended to read:

ER-MRS 6.08 (2) ~~Examination~~ Except as provided in sub. (3), examination information which may not be released includes but is not limited to the following:

SECTION 2. ER-MRS 6.08(3) is created to read:

ER-MRS 6.08 (3) For certified individuals, the administrator may release to the appointing authority the following examination information, but only after the employment interview questions have been finalized:

(a) Narrative responses to open-ended examination questions such as essay or achievement history.

(b) Tapes of oral examinations.

(c) Resumes, letters of interest, and other narrative examination material provided by the certified candidates as long as the materials released do not contain scores, comments, ratings, or other evaluations.

SECTION 3. ER-MRS 11.04 (1) (h) is created to read:

ER-MRS 11.04 (h) *Failure to appear for scheduled interview.* When a person does not appear for a mutually agreed upon scheduled interview and does not provide a valid reason for such failure to appear within 5 work days of the interview date.

RESPONSE TO LEGISLATIVE COUNCIL CLEARINGHOUSE RECOMMENDATIONS

All recommendations of the Legislative Council Clearinghouse were accepted.

LIST OF PERSONS APPEARING OR REGISTERING AT PUBLIC HEARING

There were no appearances or registrations at the public hearing. Written testimony in support of the changes was submitted by the State Human Resources Managers Council, Ms. Kathy Stella, an Employment Relations Specialist at the University of Wisconsin-Madison and by Paul Hanks, Director of Human Resources for the Public Service Commission.

MODIFICATIONS MADE AS A RESULT OF TESTIMONY AT PUBLIC HEARING

No modifications were made as a result of testimony at the public hearing.

FISCAL ESTIMATE

Supplying relevant information about candidates to hiring managers will speed the interviewing process and so save time for state agencies.

The removal of individuals who are not interested in interviewing for positions from the list of candidates will also speed the hiring process and save time for state agencies. These changes will have no dollar impact

INITIAL REGULATORY FLEXIBILITY ANALYSIS

The proposed rule does not affect small business; therefore, an initial regulatory flexibility analysis is not required.

EFFECTIVE DATE

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2)(intro), Stats. *why?*

AGENCY CONTACT

Elizabeth Reinwald
345 West Washington Avenue
Madison, WI 53702
Voice: (608) 266-5316
Fax: (608) 267-1020
e-mail: Elizabeth.Reinwald@der.state.wi.us