

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, 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 95-005

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 October 1994.]

1. Statutory Authority

a. Under the rule, a corporation or public agency that is currently authorized to apply for an environmental education grant from the board under s. 115.375, Stats., may apply for an environmental education grant on behalf of a private school, if the documentation specified in the rule is provided. Since s. 115.375 (2) (b) does not explicitly provide for the awarding of environmental education grants to private schools, the statutory authority of the board to expand indirectly the applicability of this grant program is not clear.

b. For the rule to be constitutional under the “Establishment Clauses” of both the Federal and State Constitutions [First Amendment, U.S. Const., and art. I, s. 18, Wis. Const.], and thus maintain the necessary separation between church and state, the grants to private schools will have to pass the three-part test developed by the U.S. Supreme Court in Lemon v. Kurtzman, 403 U.S. 602 (1971) and subsequent cases. The agency may wish to specifically address this issue in its analysis prepared for the final rule.

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

a. Since the analysis accompanying the rule indicates that the rule includes technical amendments to make ch. EEB 2 consistent with state statutes, the board should consider adding to s. EEB 2.03 (1) (a) a directive to the board to consult with the State Superintendent of Public Instruction in identifying needs for environmental education in public schools. Such an amendment would make par. (a) consistent with s. 115.375 (1) (a), Stats.

b. The rule uses the undefined term “private school.” See, for example, s. EEB 2.04 (2) (j) and (3m). The board should determine whether a definition is necessary to assure consistent application of the rule.

c. Does the board intend that any documentation of the agreement between the applicant corporation or public agency and the executive officer or board of a private school required under s. EEB 2.05 be submitted to the board as part of the grant application by a corporation or public agency on behalf of a private school? If so, the rule should be amended to reflect this intent, as s. EEB 2.04 (3m) only requires documentation specified under sub. (2) and s. EEB 2.04 (2) (j) only requires the name and address of the private school on whose behalf the corporation or public agency is applying.