

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-082

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

It should be noted that 1995 Wisconsin Act 27 (the Biennial Budget Bill) terminates the Educational Approval Board (EAB) on July 1, 1996 and transfers its staff, appropriations and functions (including rule-making) to the Department of Education. Legislation clarifying the status of the EAB as well as that of the Higher Educational Aids Board and the Department of Public Instruction was introduced late in the 1995 Session as 1995 Assembly Bill 1102, but failed to pass prior to the conclusion of the last scheduled legislative floorperiod. Unless there is some appropriate action taken to resolve the uncertainty of the EAB's status prior to July 1, 1996, the board does not appear to have explicit authority to adopt these rules. The rule-making authority contained in s. 38.51 (3), Stats., after July 1, 1996, will vest in the Department of Education.

2. Form, Style and Placement in Administrative Code

- a. The agency may wish to review the system of numbering used for the definitions in ch. EAB 1. An alternative to the use of a separate section for each defined term would be to use subsections for each term.
- b. In the treatment clause to SECTION 3, “as renumbered is” should be deleted.
- c. Use of the reference to a range of sections, such as “1.08 through 1.10” as used in SECTION 4 is not proper drafting form. References should be in the form “1.08 to 1.10” throughout the rule.

d. SECTIONS 10 and 11 could be combined, as could SECTIONS 14 and 15. There is no need to separate the creation of the section title and the section.

e. SECTION EAB 5.07 (4) (a) should be redrafted to renumber s. EAB 5.07 (a) 2. (on page 9, lines 10 to 13) to s. EAB 5.07 (4) (a) 3. In addition, a space should be inserted after the first occurrence of the word “than” and before “\$1” on page 9, line 2.

f. In several provisions of the rule, the complete citation should precede the text. Thus, in SECTION 18, “EAB 5.05 (1) (c)” should precede “9.”

g. In s. EAB 5.07 (1), on line 22, “an amount” should be deleted. The language is already included on line 20.

h. The final two SECTIONS of the rule should be SECTIONS 26 and 27.

4. Adequacy of References to Related Statutes, Rules and Forms

SECTION EAB 1.53 (2) mentions “rules of the board.” Can these rules be specifically cited?

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

The definition of “unearned cost” in s. EAB 1.53 is awkwardly drafted. For example, if a student pays tuition to a school, is the amount of “unearned cost” only that amount that EAB rules require be refunded? When is the “unearned cost” calculated? What is the reason to include the phrase “in whole or in part” with reference to refunds? If the definition is intended to be used to establish the amount of the surety bond under s. EAB 5.07 (4), the scope of the term should be clearly described.

In addition, the parentheses in the (intro.) should be replaced by commas. A phrase such as “meets all of the following” should precede the colon and “; and” should be replaced by a period in sub. (1).