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CLEARINGHOUSE RULE 01-019

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.]

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

a. The first paragraph of the analysis states that the amended rule grants the social worker section the authority to consider any criminal background of an applicant. The department already has that authority under ss. 111.335 (1) and 440.03 (13), Stats. The amended paragraph does not appear to confer that authority. As explained in par. c., the proposed amendment simply shifts the burden.

b. In the last sentence of the analysis, it would be clearer if “The rule does not specifically . . .” were changed to “The current rule does not specifically . . .”

c. Section SFC 313 (1) (c) shifts the duties in the application process. Instead of requiring the applicant to respond to requests, the applicant has the duty of proving an absence of arrest, convictions, and disciplinary proceedings. Thus, the applicant must prove a negative. It seems that there should be some guidance on how to do this. Would it be enough for an applicant to submit an affidavit stating that he or she had never been arrested, convicted or disciplined, or must the applicant send away for personnel records from all of his or her employers and request arrest and conviction records from the appropriate authorities in every location in which he or she has lived?

d. The rule provides that an applicant for a social worker training certificate must provide proof that the applicant does not have a record of arrests or convictions, subject to ss. 111.321, 111.322 and 111.335, Stats. While the cross-reference to the appropriate provisions of

the Fair Employment Law is helpful, the reader should clearly be told that s. 111.335, Stats., authorizes the agency to deny a certificate based on a pending criminal charge or conviction the circumstances of which substantially relate to the social worker training certificate.