



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 10-027

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

a. The agency should carefully review its statutory authority regarding the Wisconsin Covenant Scholars Program to be certain the rules reflect the statutory provisions. For example, the statute in s. 39.437 (2) (b) 1., Stats., states that a grant may not be made to a person whose name appears on the statewide lien docket unless a payment agreement is provided to the board. That prohibition is not referenced in the rule. Also, the statutes and rule refer to “half time” enrollment except the term “part time” is used in s. Adm 80.06 (2) (b).

b. The agency should also review the rule for consistency with the “Covenant Pledge” signed by students. The agency should be aware that students, and their parents, may have certain expectations regarding the program that the rule should take into account.

c. Section 39.437 (2) (b) 2., Stats., provides that a student may not be eligible for a grant in more than the equivalent of 10 semesters of undergraduate education. Section Adm 80.05 (1) provides that a student may receive the grant for no more than the equivalent of eight semesters of education. The department should explain why, and under what authority, the rule differs from the statute. Could the rule provide a grant for only one semester, since one semester is not more than 10 semesters?

2. Form, Style and Placement in Administrative Code

a. In the rule preface comparison of rules in adjacent states, reference should be made to the States of Illinois, Michigan, and Minnesota. If these states have no similar programs, then the rule preface should so state.

b. In s. Adm 80.01, the phrase “as created by 2007 Wis. Act 20,” is unnecessary and should be deleted.

c. In s. Adm 80.02, the introduction should not be in bold font and should read: “In this chapter:”.

d. The drafting of the rule needs to be revised to make the following changes:

(1) The use of “will” should be replaced throughout with “shall” if the intent is to require certain actions. If the intent is to allow discretion, “will” should be replaced with “may.”

(2) The use of capitalization is inconsistent in the draft. Generally, capitalization should be consistent with s. 1.01 (4), Manual.

(3) The numbering of sections should be consistent with s. 1.03, Manual. Particular attention should be directed to s. Adm 80.03 (1) (a) 4. b. and to s. 1.03 (2) (f), Manual. The subunits in s. Adm 80.03 (1) (a) 4. b. should be combined into subpar. b.

(4) Introductory material that grammatically leads into following subunits should indicate clearly whether all or any of the requirements in the subunits should be met. For example, s. Adm 80.03 (1) (b) should read: “Meet all of the following eligibility requirements:”. Also, when this format is used, the following subunits should begin with a capital letter and should conclude with a period. [See s. Adm 80.03 (1) (b) 2. a.]

e. Section Adm 80.03 (1) (b) 5. should be combined into one subdivision; that is, subpar. a. should not be created unless two or more subunits at that level are created. Also, the phrase “his/her” should be replaced by the phrase “his or her.” [See also sub. (2).] Also, in this subsection, the notation “subd.” should be replaced by the notation “sub.”

f. In s. Adm 80.04, the introduction should be unnumbered and the following subunits should be numbered as subs. (1) and (2). Then, in s. Adm 80.05 (3) (c), the cross-reference should read: “s. Adm 80.04 (2).”

g. In s. Adm 80.07, the notation “(1)” should be deleted. Also, this section refers to a form provided by the Office of the Wisconsin Covenant Scholars Program. The requirements of s. 227.14 (3), Stats., should be met.

h. In s. Adm 80.08 (2), the notation “s.” should be inserted before the reference to “HEA 1.07.” Also, subs. (3) and (4) refer to “Covenant Scholar” and to “Wisconsin Covenant

Scholars,” while the remainder of the rule usually refers to “Scholars.” Consistent terminology should be used.

i. In s. Adm 80.09 (1), pars. (a) and (b) should be renumbered subs. (2) and (3). Also, in sub. (1), the notation “Stats.,” should be inserted after the reference to s. 16.257.”

j. In s. Adm 80.10, the notation “(1)” should be deleted.

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

a. The fiscal estimate provided with the rule is neither complete nor presented in a clear manner. The agency may wish to complete a fiscal estimate on a form similar to that used for legislation. At a minimum, some attempt should be made to provide an estimate of the cost of the program on both a short- and long-term basis.

b. In the rule preface plain language analysis, the first occurrence of the word “The” should be deleted.

c. In the second paragraph of the rule preface statement of state fiscal effect, the comma after the word “Because” should be deleted.

d. In s. Adm 80.05 (1), the first occurrence of the word “The” should be replaced by the word “A.”

e. The grant amounts set forth in s. Adm 80.06 are confusing and in some cases apparently internally inconsistent. For example, under s. Adm 80.06 (2) (a) 1., it is not clear whether the grant is \$1,000 yearly or \$1,500 per year. Also, the amount of the grant, or the method by which it is determined, for the second two years of post-secondary education should be placed in the text of the administrative code.

f. The terms “yearly” and “per year” and “annual” are all used in the rule without an indication of whether terms are to be considered the same. This should be clarified.

g. For clarity, the term “via” should be changed to “by” in s. Adm 80.07 (1).

h. It is not clear how the various entities will “ensure” the provisions of s. Adm 80.08 (3) are met.

i. Numerous duties for the Higher Educational Aids Board are incorporated into the rule; it is not clear how the joint responsibilities of the board and the Office of the Wisconsin Covenant will be managed or disagreements will be resolved. To the extent possible, this aspect of the rule should be clarified. For example, the rule provides that for the second two years of post-secondary education, the office shall develop and submit to the board a formula for awarding grants in the upcoming years. Is it intended that the board has authority to modify the formula? Will the office submit revised rules to reflect any changes?

j. The rule permits a “B” average to be met in a number of different ways, while the Covenant Pledge requires a person to “maintain at least a “B” average.” Thus, it is likely there may be close scrutiny of the provisions. For example, what is meant by “career cumulative

grade point average”? Also, is there an intended scope to the term “consistent improvement” as used in s. Adm 80.03 (2) (c)? This section should be carefully reviewed to provide as much certainty as possible.

k. For the Wisconsin Covenant College Access Network Council, created in s. Adm 80.09, would it be advisable to allow the named members to appoint “designees”? What is the intended status of the “associate members” of the Council?