

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## *RULES CLEARINGHOUSE*

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## CLEARINGHOUSE RULE 95-184

### 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.]**

#### **2. Form, Style and Placement in Administrative Code**

- a. In s. Trans 106.02, the phrase “OWI-related charge” should be defined.
- b. In s. Trans 106.07 (2) (intro.) and (a), the defined term “AODA” should replace “alcohol and other drug abuse.”

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

a. Section Trans 106.04 (2) (d) provides that a decision of the Department of Administration’s Division of Hearings and Appeals is final with respect to a petition for redetermination of an order by the Department of Transportation cancelling a traffic safety school certification. Since s. 227.52, Stats., provides that administrative decisions that adversely affect the substantial interest of any person are subject to judicial review, the department should clarify that the Division’s decision is the final administrative decision, but that it is subject to judicial review under s. 227.52, Stats.

b. The first two sentences of s. Trans 106.07 (intro.) should be combined in a manner such as the following: “To be certified, a group dynamics traffic safety instructor shall meet at least 2 of the following 3 subsections, including par. (a) from at least one subsection, at the time of application.” In addition, the third sentence should be drafted to state that: “An individual who does not meet a requirement specified in sub. (1) shall monitor a general traffic safety course:”.

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

- a. In s. Trans 106.03 (4) (e), it is suggested that the word “size” be stricken.
- b. Under s. Trans 106.03 (6) (a) 4., a student may satisfactorily complete a traffic safety course with one excusable absence. However, s. Trans 106.03 (6) (a) 3. provides that no student who is tardy by more than 20 minutes may receive credit for a class. This paragraph goes on to state that “(o)nlly one tardy shall be allowed.” Does the department intend that a person who is tardy by less than 20 minutes on one occasion may receive credit for a course? Does the department intend that a student who is tardy by less than 20 minutes is not considered tardy, but a student who is tardy by more than 20 minutes may receive credit for a course if only one such occurrence occurs during a course? This should be specified in the rule.
- c. In s. Trans 106.04 (2) (a), it is suggested that the word “provisions” be substituted for the word “propositions.”
- d. In s. Trans 106.04 (2) (b), it is suggested that the second sentence be deleted and the first sentence be redrafted in a manner similar to the following: “A request for redetermination shall be filed with the manager of the division of motor vehicles traffic safety program and shall be received by the division of motor vehicles safety program within 30 days of the date that the department cancelled the certification.”
- e. Section Trans 106.06 (1) (b) 2. is drafted in a manner which is unclear. First, the subdivision is not clear as to what the term “point reductions” refers to. In addition, if the phrase “when considering the amount of points within one year” refers to the computation of demerit points within one year, the subdivision should be redrafted to state this clearly. This comment is also applicable to s. Trans 106.06 (4).
- f. In s. Trans 106.06 (1) (c), it is suggested that the term “has applied to be” be substituted for the term “shall be”.
- g. In s. Trans 106.06 (1) (d), the meaning of the phrase “with the personal information only” needs to be clarified. What is the “personal information” that must be submitted? What is the other information that need not be submitted?
- h. In s. Trans 106.06 (3) (b), the second sentence would be more clear if drafted in a manner similar to the following: “A newly certified instructor shall teach the course for which the instructor is certified within six months after the date of receiving the certification.”
- i. In s. Trans 106.07 (2) (a), the last comma should be replaced with the word “or” to make the paragraph grammatically correct.
- j. Section Trans 106.07 (2) (b) does not make sense as drafted. Is it intended that an applicant must have a minimum of one semester “in a” college level course in the area of alcohol or other drug abuse education or treatment? The department needs to redraft this paragraph. This comment is also applicable to s. Trans 106.07 (3) (b).
- k. Section Trans 106.07 (3) (a) does not make sense as drafted. Would the intent of this paragraph be clarified by replacing the comma with the word “or”?

l. Section Trans 106.08 is drafted in a manner which is grammatically incorrect. It is suggested that the section be drafted in a manner similar to the following:

To obtain certification, a multiple offender traffic safety instructor shall:

(1) Meet the minimum requirements of s. Trans 106.07.

(2) Teach at least three group dynamics courses in their entirety or have a bachelor's or master's degree in guidance counseling, psychology, behavioral studies or social work.

m. In s. Trans 106.09 (intro.), the word "a" should be placed after the word "have."

n. Section Trans 106.09 (1) is unclear because the phrase "division of motor vehicles" is not an area of traffic safety or a related field. Would the intent of this subsection be clarified by inserting the phrase "such as employment with the division of motor vehicles" before the first comma and by deleting the phrase "division of motor vehicles" at the end of the subsection?

o. In s. Trans 106.11 (1) (a), it is suggested that the phrase "he or she wishes" be substituted for the phrase "they wish." In addition, it is suggested that the word "Has" be substituted for the phrase "Met the requirements for" in s. Trans 106.11 (1) (b).

p. Read literally, s. Trans 106.12 (2) states that members of the Traffic School Advisory Council must include members who are not representatives of one of the groups designated in s. Trans 106.12 (2). If this is not intended, it is suggested that the phrase "but ~~shall~~ may not be limited to," be deleted from the subsection. This phrase is unnecessary because the word "include" is inclusive rather than limiting. [See s. 1.01 (7) (c), Manual.] In the alternative, "need" could replace "shall."