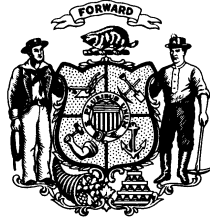


WISCONSIN LEGISLATIVE COUNCIL STAFF

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 96-185

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. When treating an entire section of a rule, it is not necessary to repeat the rule section number before each subsection. For example, since the renumbered s. DOC 309.21 is amended in its entirety, it is not necessary to repeat "DOC 309.21" before sub. (2). The entire rule should be reviewed and, where appropriate, amended.

b. SECTION 2 of the rule repeals s. DOC 309.365 and recreates it as s. DOC 309.22. The appropriate method to accomplish this result is to create s. DOC 309.22 and repeal s. DOC 309.365 in separate SECTIONS of the rule.

c. Because SECTIONS 3 to 26 of the rule involve the process of relocating provisions of s. DOC 309.61 into a newly created s. DOC 309.44, it appears that it would be more efficient to simply create s. DOC 309.44 as it is intended to appear and repeal s. DOC 309.61.

d. Sections DOC 309.22 (3) (b) 6. and (4) and 309.44 (2) (f) refer to "other factors," "written policies" and "guidelines." To the extent these other factors, written policies and guidelines meet the definition of the term "rule" in s. 227.01 (13), Stats., they should be promulgated as administrative rules under the procedures provided in ch. 227, Stats.

e. In s. DOC 309.44 (2) (b), a "(2)" should be inserted before the "(b)" in the section number.

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

Section DOC 309.44 (5) refers to "DOC 309 internal management procedure or I.M.P. 6." What is this? An appropriate cross-reference to a section of the rule or to the statutes should

be included, perhaps with a note explaining what it is. Preferably, the content of I.M.P. 6 should be included in the text of the rule. In any event, the goal of ch. 227, Stats., is to provide the public with an opportunity to affect the content of administrative rules and to provide appropriate legislative oversight of administrative rules. This goal cannot be achieved without any understanding of the substantive provisions of the internal management procedure.

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

a. The current rule generally prohibits inmate groups from identifying themselves as a group unless they have the approval of the superintendent. However, s. DOC 309.22 does not contain a similar prohibition and only says that a group may submit an application and the approval decision is discretionary with the warden. Is it the rule's intent to require inmate groups to get the warden's permission before identifying as a group or engaging in group activities? If so, the rule should be amended accordingly.

b. The items to be considered in s. DOC 309.22 (3) (b) 1. and 2. are worded somewhat oddly. Although subs. 3. to 6. make it clear that a decision to approve a group can be made if the group's activities are consistent with those factors, subs. 1. and 2. seem to imply that approval can be made if the group's services or benefits are adequately provided and readily available from existing programs. Is this the rule's intent? Perhaps approval could be made if those services are not adequately provided or readily available from existing programs.

c. The word "meeting" in s. DOC 309.22 (2) (f) should be made plural.

d. Section DOC 309.44 (2) (c) (intro.), (d) and (e) use the phrase "supported by tenets of the religion." However, sub. (2) (d) also uses the phrase "or a reasonable variation of those tenets." The use of these phrases, in determining whether certain religious practices will be allowed, should be made consistent.