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CLEARINGHOUSE RULE 97-079

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 the analysis, along with the list of statutes authorizing the rule, a list of statutes interpreted by the rule should be included.

b. In s. DOC 309.01, the period at the end of the first sentence should not be underscored.

c. The treatment clause of SECTION 8 should read, “DOC 309.02 (7) is renumbered DOC 309.02 (8) and amended to read:”.

d. The treatments in SECTIONS 11 to 23 are out of order. The SECTIONS should be “arranged in numerical order of the decimal-numbered provisions as they appear in the rules at the time of drafting.” [s. 1.04 (1), Manual.] For example, SECTION 12 should precede the action taken in SECTION 11. That is, current s. DOC 309.02 (9) should be renumbered before a new s. DOC 309.02 (9) is created.

e. In s. DOC 309.02 (21), all of the paragraphs should conclude with periods.

f. A SECTION needs to be inserted between SECTIONS 38 and 39 to renumber s. DOC 309.04 (2) (d).

g. In SECTION 40, the treatment clause should read: “DOC 309.05 (4) is renumbered DOC 309.04 (3) and amended to read:”. Also, the phrase “listed below” should be replaced by the phrase “listed in pars. (a) to (j).”

h. In s. DOC 309.04 (4) (intro.), “subs.” should be stricken and “sub.” should be inserted.

i. With respect to s. DOC 309.05 (6) (c) 8., either: (1) the provision should be renumbered and amended; or (2) the provision should be repealed and s. DOC 309.04 (4) (c) 8. should be created earlier in the text. Also, all of the subparagraphs contained in the provision should conclude with periods. [See also SECTION 54.]

j. In SECTION 57, the created text is for sub. (4), not sub. (5). This comment also applies to SECTION 58. Also, in SECTION 58, the phrase “those above” should be replaced by an appropriate cross-reference.

k. In s. DOC 309.04 (8) (a), “~~by the adjustment committee and~~” should not be underscored.

l. In s. DOC 309.05 (2) (b) 4., “injurious” should follow “~~obscene~~.”

m. In s. DOC 309.20 (1), the title must be shown even though it is not amended. [s. 1.05 (3) (d), Manual.] This comment also applies to subs. (3), (4) and (7). Also, in sub. (1), “~~the institution~~” should be replaced with “~~an institution~~.”

n. In s. DOC 309.20 (3) (b) (intro.), “include” should be replaced with “including.”

o. In s. DOC 309.20 (4) (b) 1., “time” should be inserted after “30 days after which.”

p. In s. DOC 309.20 (6) (b), in the second sentence, “The” and “may” should be underscored.

q. In the Note to s. DOC 309.04, the amendment to paragraph #3 should delete sentences #2 to #7, because there is no #8.

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

a. In s. DOC 309.04 (3), a period should be inserted after the number “1” in the reference to “sub. (6) (e) (intro.) and 1.”

b. In SECTION 78, periods should be inserted after the cites to subdivisions in the treatment clause.

c. In the Note to s. DOC 309.04, in the amendment to sentence #3 paragraph #6, it appears that the cite to s. DOC 303.49 is incorrect. Also in that Note, in the amendment to paragraph #15, it appears that the underscored subsections should be “(4).” In the amendment to paragraph #16, it appears that the underscored subsections should be “(6)” and “(8).”

d. In the Note to s. DOC 309.05, the amendment to sentence #1, paragraph #1, the underscored cite should be to s. DOC 309.05. An amendment then should be made to sentence #2, paragraph #1 and to the last sentence of paragraph #2.

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

a. In s. DOC 309.02 (15), “(a)” and “(b)” should be deleted or the text following each should be placed in separate paragraphs.

b. In s. DOC 309.02 (21) (a), “which” should be inserted before “means” since the sentence is not a definition.

c. The purpose of s. DOC 309.03 (2) (e) seems to be included in s. DOC 309.03 (2) (a) 3. If so, it could be deleted.

d. In s. DOC 309.04 (4) (c) 11., who will make the determination? [See, for example, s. DOC 309.04 (4) (c) 12.]

e. In s. DOC 309.04 (4) (d), the period before “the date” should be deleted.

f. In s. DOC 309.04 (4) (e) 2. and (f), appropriate cross-references should replace the phrases “departmental rules” and “these sections.”

g. In s. DOC 309.04 (6), “s.” should be inserted before “DOC 303.10.”

h. In s. DOC 309.05 (1), what are the “correctional objectives”?

i. Section DOC 309.05 (2) (a) could be clarified by replacing the word “must” with the phrase “may only.”

j. In the Note to s. DOC 309.04, in the third sentence recreated in paragraph #3, “it” should be inserted before “is represented to be.” Does the amendment to sentence #6 paragraph #8, delete the last sentence? Also in that Note, it appears that if sentence #5, paragraph #11, is deleted, the rest of the paragraph should be deleted as well. Finally, in the amendment to paragraph #16, the extra parenthesis should be deleted.

k. The amendments to the Note to s. DOC 309.20 should be reviewed. The Notes to the subsections are not in order. Also, in that Note, in the amendment to paragraph #7, “subject of” should be replaced with “subject to” and “inmate’s” should be replaced with “inmates’.”

l. In the Note to s. DOC 309.40, in the amendment to sentence #4, paragraph #1, “&” should be inserted between the cites instead of hyphens.