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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 03-124

#### 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 2002.]**

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

- a. In the treatment clause for SECTION 1, “as follows” should be deleted.
- b. The titles of subchapters should not be written in bold text.
- c. In s. DOC 346.06 (3), the text of sub. (3) (intro.) does not introduce the subsequent paragraphs. A phrase such as “as follows” should be included at the end of the subsection’s text. In the alternative, sub. (3) (intro.) could be numbered par. (a) and the subsequent paragraphs could be pars. (b) to (d). This comment also applies to ss. DOC 346.14 (2) (c) and (4), 346.17 (3) (q) and (4) (b), 346.46 (1), and 346.49 (1) (b).
- d. In s. DOC 346.08 (1), par. (I) should be written as par. (L). This comment also applies to s. DOC 346.17 (3).
- e. In s. DOC 346.13 (1), the drafter should insert “do all of the following” at the end of the introductory material and end each paragraph with a period to be consistent with current drafting style. This comment also applies to several other sections, including s. DOC 346.14 (5) (b) and (6) (b). [See s. 1.03 (8), Manual.]
- f. Section DOC 346.13 (1) (a) should begin on a separate line. This comment also applies to s. DOC 346.14 (6) (c).
- g. In s. DOC 346.14 (14) (a), the title should be deleted since there is not title for par. (b).

h. In s. DOC 346.15 (3), the paragraph titles should be italicized. [See s. 1.05 (2) (d), Manual.]

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

a. In s. DOC 346.03 (16), it appears that the citation relating to dormitories should be s. DOC 346.14 (3).

b. In s. DOC 346.03 (20) (b), the citation to s. 59.23 (1), Stats., should be to s. 59.27 (1), Stats.

c. In s. DOC 346.07 (1), the citations should be rewritten as ss. DOC 346.14 (1) and (10) and 346.15 (3) (a) and (d).

d. In s. DOC 346.08 (1) (g), (h), (i), and (k), periods should be inserted in the citations after citations to subdivisions and subdivision paragraphs.

e. In s. DOC 346.10, the citation to s. DOC 346.13 (9) should be changed to s. DOC 346.14 (3) and the citation to s. DOC 346.14 should be changed to s. DOC 346.15.

f. In s. DOC 346.14 (1), both of the references to sub. (9) should be changed to sub. (3).

g. In s. DOC 346.14 (7) (b) 2., it appears that the citation to s. Comm 64.58 (2) should be to s. Comm 64.0403. Also, the citation should not be underlined and italicized.

h. In s. DOC 346.17 (3) (a), the citation to s. HFS 145.03 (2) should be to s. HFS 145.03 (4).

i. In s. DOC 346.47 (5) (a), the citation should be to s. DOC 346.48.

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

a. In s. DOC 346.03 (1), the second sentence should be deleted.

b. In s. DOC 346.03 (5), “the” should be inserted before “department.”

c. In s. DOC 346.03 (7), “under s. 938.02 (16), Stats.,” could be deleted because “secure detention facility” is also a defined term.

d. In s. DOC 346.03 (14), “Secure Detention Officer” should not be capitalized.

e. In s. DOC 346.03 (15), should “materials” be replaced with “communications”?

f. In s. DOC 346.03 (20) (a), it appears that “public” should be deleted. The statutes refer only to secure detention facilities. Is there a class of secure detention facilities that are not public?

g. In s. DOC 346.04 (2) (a), “A” should be inserted at the beginning of the sentence.

h. In s. DOC 346.04 (2) (c), “areas” should be inserted after “visiting.” Also, “and all other areas in which juveniles could have contact with adult inmates” should be deleted as it repeats what is stated at the beginning of the sentence.

i. In s. DOC 346.04 (2) (d), it would be clearer to begin the sentence with “For a secure detention facility,”.

j. In s. DOC 346.04 (2) (f), “which the facility will follow” should be deleted.

k. In s. DOC 346.06 (1), “of all juveniles” should be replaced with “for all juveniles.” Also, does “destination” mean the destination of the juvenile after release?

l. In s. DOC 346.06 (2), some of the paragraph text ends with a semi-colon and some with a period. Please review this subsection. All of the paragraphs should end with a period. This comment also applies to s. DOC 346.13 (1).

m. In s. DOC 346.06 (3) (intro.), “or” should be inserted before “filing.”

n. In s. DOC 346.06 (3) (a), “separate” should be replaced with “separately.”

o. In s. DOC 346.06 (3) (b), “by” should be deleted.

p. In s. DOC 346.06 (4) (intro.), the last part of the sentence should be replaced with “after any of the following occurs?”.

q. In s. DOC 346.08 (1), the list of statutory citations to describe which juveniles may be held in a secure detention facility is not helpful. The drafter should consider briefly describing the circumstance each statute covers.

r. In s. DOC 346.09 (1), “placed in secure detention unless the facility meets” should be replaced with “placed in a secure detention facility unless it meets.”

s. In s. DOC 346.09 (2), “be able to” should be deleted.

t. In s. DOC 346.09 (4), “shall not” should be replaced with “may not.”

u. Please review s. DOC 346.11. There should not be adult inmates in a secure detention facility. Is this provision meant to apply to secure detention facilities that are co-located with a county jail?

v. In s. DOC 346.13 (1) (b), what does the “facility program” mean?

w. In s. DOC 346.14 (2) (a), (b), and (g), “Except if” should be replaced with “Unless.”

x. In s. DOC 346.14 (2) (h), does the system need to be able to unlock both individual doors and all of the doors or can it do one or the other?

y. In s. DOC 346.14 (3) (f) 4., the comma after “Unrestricted” should be deleted.

z. In s. DOC 346.14 (3) (f) 6., assuming the blank is there for a date, text such as “after the effective date of this chapter...[revisor inserts date]” should be substituted for the blank space. This comment also applies to sub. (11) and s. DOC 346.15 (3) (f).

aa. In s. DOC 346.14 (5) (b) 3., the sentence should be rewritten as “A minimum floor area of 50 square feet for 5 or fewer occupants and an additional 10 square feet for each additional occupant.”

bb. In s. DOC 346.14 (5) (b) 4., the beginning of the sentence should be replaced with “Detention strength light fixtures that provide.” This comment also applies to sub. (3) (f) 11. and sub. (6) (b) 3. of that section.

cc. In s. DOC 346.14 (5) (c), “determining” should be inserted before “the rated capacity.” This comment also applies to sub. (6) (c) of that section.

dd. In s. DOC 346.14 (7) (a), it appears that “where inmates are detained for a time period not to exceed 72 hours” is repetitive and should be deleted. If not, “inmates” should be replaced with “juveniles” and “72” should be replaced with “24.” [See sub. (5) (d) in that section.] Also in that paragraph, what does “borrowed lights” mean?

ee. In s. DOC 346.14 (7) (b) 1., “openable” is not a word.

ff. In s. DOC 346.14 (8) (e), it appears that “the window’s security screen need not meet the requirements of par. (d), but” is repetitive and could be deleted. Also, must these windows be mounted in a detention strength frame?

gg. In s. DOC 346.14 (11), “is” should be inserted before “dedicated.”

hh. In s. DOC 346.14 (13) (a), “of outdoor recreation space” should be inserted before “per occupant.”

ii. In s. DOC 346.14 (13) (b), “this” should be replaced with “outdoor recreational.”

jj. In s. DOC 346.14 (14) (a) and (b), “is” should be replaced with “shall be.”

kk. In s. DOC 346.16 (2), must the plan be posted in a place that is conspicuous to staff or to juveniles, or both?

ll. In s. DOC 346.17 (3) (a), “knowingly” should be replaced with “who is known to be.”

mm. In s. DOC 346.17 (3) (b), “All persons shall refrain from using” should be replaced with “No person may use.”

nn. In s. DOC 346.17 (3) (h), “under” should be replaced with a phrase such as “that are subject to.”

oo. In s. DOC 346.17 (3) (l), should “flies” be replaced with “insects”?

pp. In s. DOC 346.17 (3) (s), the hyphen in “ac-cumulated” should be removed.

qq. In s. DOC 346.17 (5) (d), “shall not” should be replaced with “may not.” Also, “other than” should be replaced with “that is not.”

rr. In s. DOC 346.22 (1), “of a secure detention facility” should be inserted after “superintendent.”

ss. In s. DOC 346.22 (2) (c), “co-located facility” should be replaced with “facility that is co-located with a county jail.”

tt. In s. DOC 346.23 (4), it appears that the rules should specify that facilities must maintain agreements with certain types of health care professionals and should clarify what those agreements must include.

uu. In s. DOC 346.25 (4), “will” in the first sentence should be replaced with “shall.” The second sentence should be rewritten as “Separate parental consent is not required for ordered tuberculosis screening.”

vv. In s. DOC 346.33 (9), perhaps “when appropriate” should be replaced with a phrase that is more descriptive such as “unless notification would endanger the juvenile, other juveniles, or facility staff.”

ww. In s. DOC 346.35 (4), “to” should be replaced with “into.”

xx. In s. DOC 346.40 (3), “of” should be inserted before “religious organizations.”

yy. In s. DOC 346.43, what does “strict controls” refer to?

zz. In s. DOC 346.45 (1), “of” should be inserted after “Search.”

aaa. In s. DOC 346.47 (5) (b), “shall not” should be replaced with “may not.”

bbb. In s. DOC 346.48 (1) (b), “to respond” should be replaced with “in responding.”

ccc. In s. DOC 346.48 (4) and (6), “will” should be replaced with “shall.”

ddd. In s. DOC 346.49 (1) (b) 1. and 4. and (2) (a) and (b), “shall” should be replaced with “may.”

eee. In s. DOC 346.49 (2) (d), “shall receive” should be inserted before “training.”

fff. In s. DOC 346.50 (1), both instances of “only” should be deleted.

ggg. In s. DOC 346.53 (4), “a officer” should be replaced with “an officer.”