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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 05-076

#### 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 January 2005.]**

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

In the second sentence of s. PI 36.03 (1) (d), “~~for~~” should be changed to “~~or~~.”

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

a. In the last sentence of the next-to-last paragraph of the “Summary of factual data and analytical methodologies” in the analysis and in the report to the Clearinghouse, the word “be” should be deleted or changed to “being.”

b. The last paragraph of the “Summary of factual data and analytical methodologies” in the analysis and in the report to the Clearinghouse includes the phrase “[a]llowing one of the custodial parents to sign the form ....” Similarly, the instructions on the form require a statement that “I am the child’s custodial parent or ....”

However, neither of these provisions is consistent with s. PI 36.03 (1) (d), as the rule refers to “the parent” without a requirement that it be a custodial parent. Notably, s. 118.51 (3) (a) 1., Stats., also refers to “the parent.”

The inconsistency between the rule and the analysis and form should be eliminated.

c. The third sentence of the last paragraph of the “Summary of factual data and analytical methodologies” in the analysis and in the report to the Clearinghouse indicates that the question of where the child goes to school “must be resolved in the way all joint custodial decisions are made.” This does not adequately address situations in which a joint custodial

decision is not appropriate as the court has provided otherwise. It also does not address situations in which there has been no court order regarding the matter (perhaps because there has been no underlying action affecting the family or an action has been filed but no decision has been rendered). It may be preferable to change this phrase to be more generic, for example, to: “must be resolved in the way all major decisions are made with respect to the child.”

Similarly, the last sentence of that last paragraph indicates that the open enrollment option is kept open “until such time as the parents can make a joint decision.” Again, it may be that a court order has provided for other than a joint decision. Or, even when a joint decision is appropriate, it may take longer to make a joint decision than the open enrollment attendance decision deadline allows. Thus, it may be more appropriate to rephrase the last sentence to something such as: “However, it keeps the open enrollment option available so that the decision to attend school under the open enrollment program can be made later in accordance with any court order about how these decisions are to be made, as long as there is compliance with any applicable open enrollment deadline.”