



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 13-038

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2011.]

1. Statutory Authority

Section 302.365 (1), Stats., which is cited by the agency as statutory authority, requires the agency to establish, by rule, program standards for jails. The standards must include: (1) a policy and procedure manual, including policies and procedures for screening prisoners for medical illnesses or disabilities, mental illnesses, development disabilities, and alcohol or other drug abuse problems; identification of the facilities and programs that will be provided for long-term prisoners; and policies and procedures for providing educational programming for prisoners under 18 years of age; and (2) crisis intervention services.

It appears that the proposed rule may not contain all the standards required in s. 302.365 (1), Stats. Should the standards in s. 302.365 (1), Stats., be included as part of this proposed rule, or are they contained in other chapters of the administrative code? If the standards are in other chapters, it might be helpful to reference those provisions in the proposed rule, perhaps in s. DOC 350.09.

2. Form, Style and Placement in Administrative Code

a. At the beginning of the text of the rule, there should be a SECTION treatment that states the following: “SECTION 1. Chapter DOC 350 is repealed and recreated to read:” [s. 1.04, Manual.]

b. In s. DOC 350.09 (2) (a) (intro.), the paragraph does not introduce the subsequent subdivisions. A phrase such as “using the following procedure:” should be inserted at the end of

the sentence. [s. 1.03 (3), Manual.] This comment also applies to ss. DOC 350.15 (15) (intro.), 350.17 (3) (intro.), 350.24 (3) (d) (intro.), and 350.28 (intro.).

c. The effective date section should be labeled as SECTION 2 and should follow the format outlined in s. 1.02 (4), Manual.

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

a. In the plain language analysis, in item 15., “DOC” should be inserted before each of the citations.

b. In s. DOC 350.03 (14), “ss.” should be replaced with “s.” [s. 1.07 (2), Manual.]

c. In s. DOC 350.03 (15), it appears that the citation to s. 303.17, Stats., is unnecessary.

d. In s. DOC 350.05 (3) (e), “In this subsection” should be replaced with “In this paragraph”. [s. 1.07 (2), Manual.] This comment also applies to sub. (6) (f) and s. DOC 350.06 (3) (e) and (6) (f).

e. In s. DOC 350.09 (1) (a), “ss.” should be inserted before “DOC 350.11” and the dash should be replaced with “to”. Also, in sub. (2) (c), “section” should be replaced with “subsection”. [s. 1.07 (2), Manual.]

f. In s. DOC 350.14 (2), “Ch.” should not be capitalized. [s. 1.07 (2), Manual.]

g. In s. DOC 350.15 (15) (b), a comma should be inserted after “Stats.”. [s. 1.07 (2), Manual.]

h. In s. DOC 350.24 (3) (d) 1., “(6)” should be replaced with “6.”. [s. 1.07 (2), Manual.] This comment also applies to subd. 8.

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

a. In the plain language analysis:

(1) In item 2., a quotation mark should be inserted before “Inmate health care”.

(2) In item 17., a quotation mark should be inserted after “s. 302.36, Stats.”.

(3) In item 22., using semi-colons to separate the listed items would make the list easier to read.

(4) In item 31., a quotation mark should be inserted after “Variance.”.

(5) In item 56., a space should be inserted in “incompliance”.

(6) In item 74., “asses” should be replaced with “assess”.

b. Under the comparison of similar rules in adjacent states, in the discussion of telephone access in Minnesota, “provide” should be replaced with “provides”.

c. In the table of contents for ch. DOC 350, the title of s. DOC 350.08 should be replaced with "Variance".

d. In s. DOC 350.03 (12), it would be helpful to include semi-colons to separate the items in the list.

e. In s. DOC 350.05 (1), "[effective date of new rule]" should be replaced with "the effective date of this section [LRB inserts date]". [s. 1.01 (9) (b), Manual.] This comment also applies to ss. DOC 350.06 (title) and (1) and 350.19 (7).

f. In s. DOC 350.05 (2) (intro.), it may be clearer to rewrite the beginning of the sentence as: "Furniture and fixtures used in a jail shall be made of detention strength material...". This comment also applies to s. DOC 350.06 (2) (intro.). Also, in s. DOC 350.05 (2) (f), "threshold" should be plural.

g. In s. DOC 350.05 (3) (b), a space should be inserted between "s." and "DOC". In par. (d), "In addition," should be deleted. In par. (f), "will" should be replaced with "shall". [s. 1.01 (2), Manual.]

h. In s. DOC 350.05 (4) (b), it appears that "present" or "who has access to the dayroom" should be inserted at the end of the sentence.

i. In s. DOC 350.05 (6) (e), "light" should be inserted before "enough for security checks".

j. In s. DOC 350.06 (2) (e), "hooks" should be inserted after "Clothing".

k. In s. DOC 350.06 (4) (a), it is not clear how the requirements referenced for dayrooms in a dormitory relate to the provisions of this paragraph.

l. In s. DOC 350.06 (13) (a), should "sill" be replaced with "threshold"?

m. In s. DOC 350.07 (8), "1/4" should be replaced with "1/4 inch".

n. In s. DOC 350.09 (1) (b), the sentence should end with a period.

o. In s. DOC 350.11 (title), "Service" should not be capitalized. [s. 1.05 (2) (b), Manual.]

p. In s. DOC 350.11 (18), "are" should be deleted.

q. In s. DOC 350.13 (5), who is required to have completed the previous appraisal? The rule should specify.

r. In s. DOC 350.15 (14), "Use of" should be inserted at the beginning of the sentence. In addition, the dash should be replaced with "under".

s. In s. DOC 350.15 (15) (d), is "bio hazardous waste" the correct phrase? Does this provision refer to medical waste?

t. In s. DOC 350.16 (8), "will" should be replaced with "shall". [s. 1.01 (2), Manual.]

u. In s. DOC 350.17 (12), for whom must access to debriefing and support services be made available?

v. In s. DOC 350.18 (7), would it be clearer to replace “including” with “to”?

w. In s. DOC 350.18 (8) (a), “are” should be replaced with “shall be”. In par. (b), “must” should be replaced with “shall”. [s. 1.01 (2), Manual.]

x. In s. DOC 350.19 (4), it is not clear what it means to practice and simulate training. Perhaps “training” should be replaced with “evacuation and other procedures”.

y. In s. DOC 350.20 (1), the second sentence should be rewritten. One option is: “The joint determinations shall be in writing and signed by the representatives of the county board and the sheriff and shall be filed with the department.”.

z. Section DOC 350.20 relates to double celling. In the current section relating to double celling, s. DOC 350.07, there is a requirement that, except in an emergency, inmates must be allowed out of their cells at least 14 hours per day. [s. DOC 350.07 (4).] This requirement does not appear to be included in the proposed rule. Should it be included in the proposed rule?

aa. In s. DOC 350.21 (intro.), in the second sentence, “custody status, housing assignment, and develop eligibility criteria” should be replaced with “custody status and housing assignment and shall develop eligibility criteria”. In sub. (3), is this review different than the appeal process referenced in sub. (1)?

bb. In s. DOC 350.22 (2), “the sheriff’s” should be inserted before “designee”. This comment also applies to s. DOC 350.23 (2).

cc. In s. DOC 350.24 (1), in the second sentence, “imposed” should be deleted. In sub. (2) (a), “or disciplines” could be deleted and, instead, “, or any combination of these consequences” could be inserted at the end of the last sentence. This comment also applies to sub. (3) (a). In sub. (2) (b), it appears that “potential” could replace “contemplated”. Finally, in sub. (3) (d) 4., what is an “adequate substitute aide”?

dd. In s. DOC 350.25 (intro.), the quotation mark for “administrative confinement” should be fixed. In sub. (1) (a), the sentence should end with a period.

ee. In s. DOC 350.31 (1), who authorizes the community resources, contract providers, and volunteers? In sub. (4), a phrase such as “for all volunteers” should be inserted at the end of the sentence. This comment also applies to s. DOC 350.32 (5).