

REPORT TO THE LEGISLATURE

CLEARINGHOUSE RULE 09-066
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
TCS 10.03 (3), WIS. ADMIN. CODE

Submitted by:

Wisconsin Technical College System Board
4622 University Avenue
PO Box 7874
Madison, WI 53707-7874

September 22, 2009

**ORDER OF THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
AMENDING RULE RELATED TO RESIDENCY, ADMISSIONS AND FEE REFUND
(Clearinghouse Rule 09-066)**

The Wisconsin Technical College System Board proposes an order to amend TCS 10.03 (3) relating to statutory residents.

**ANALYSIS PREPARED BY THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD**

I. PLAIN LANGUAGE ANALYSIS

- 1. Statutes interpreted:** § 38.22 (6) (e) as created by 2009 Wisconsin Act 28, and § 38.22 (6) (f) Wisconsin Statutes
- 2. Statutory authority:** § 15.64, § 38.22 (4), § 38.22 (6) (e) as created by 2009 Wisconsin Act 28, and § 38.22 (6) (f) Wisconsin Statutes
- 3. Explanation of agency authority:** Pursuant to § 38.22 (4), Wis. Stats., the Technical College System Board shall establish procedures to determine the residence of students attending district schools.
- 4. Related statute or rule:** 2009 Wisconsin Act 28 and § 38.22 (6) (e) and (f)
- 5. Plain language analysis:** The 2009-11 state budget bill, 2009 Wisconsin Act 28, added new state residency provisions for tuition purposes for persons who are citizens of a country other than the United States, but who are enrolled in a technical college district and who meet three eligibility requirements: they graduated from a Wisconsin high school or received a Wisconsin HSED; they have been continuously present in the state for the three years following the first day of attending a Wisconsin high school or preceding receipt of a Wisconsin HSED; and upon enrollment in a technical college, they demonstrate proof of filing (or intent to file) for a permanent U.S. resident visa as soon as they are eligible. Proof that a person has filed or will file an application for a permanent resident visa with U.S. Citizenship and Immigrations Services as soon as the person is eligible to do so may be demonstrated by a notarized affidavit to that effect signed by the person seeking resident tuition. In addition, previous legislation added § 38.22 (6) (f) relating to the residency status for tuition purposes for certain veterans, which was never codified into administrative rule.
- 6. Summary of, and comparison with, existing or proposed federal regulations:** not applicable
- 7. Comparison with rules in adjacent states:** not applicable
- 8. Summary of factual data and analytical methodologies:** not applicable
- 9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** not applicable

10. Effect on small business: none

11. Agency contact person: Morna Foy, Executive Assistant, Wisconsin Technical College System, 4622 University Avenue, P.O. Box 7874, Madison, Wisconsin 53707-7874; telephone (608) 266-2449, e-mail morna.foy@wtcssystem.edu.

12. Place where comments are to be submitted and deadline for submission: Public hearing and notice are not required under s.227.16 (2) (b) Stats., as the proposed rule amendment brings the existing rule into conformity with s. 38.22 (6).

II. STATEMENT EXPLAINING NEED FOR PROPOSED RULE

The 2009-11 state budget bill, 2009 Wisconsin Act 28, added new state residency provisions for tuition purposes for persons who are citizens of a country other than the United States, but who are enrolled in a technical college district. These provisions are being added to existing administrative rule TCS 10.03 (3) relating to statutory residents. In addition, previous legislation added § 38.22 (6) (f) relating to the residency status for tuition purposes for certain veterans, which is now also being added to TCS 10.03 (3).

III. PUBLIC HEARING

A public hearing was not required under s.227.16 (2) (b) Stats., as the proposed rule amendment brings the existing rule into conformity with s. 38.22 (6).

IV. RESPONSE TO THE LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS

All recommendations were accepted and incorporated into the final draft. The language in the analysis was revised to coincide with the language of s. 38.22 (6) (e), as created by 2009 Wisconsin Act 28. The specific statutory paragraphs cited as sources of agency authority were added.

V. FINAL REGULATORY FLEXIBILITY ANALYSIS

Not applicable

VI. FISCAL ESTIMATE

The functions required by this rule can be absorbed within existing staff. Therefore, there is no fiscal effect on the agency.

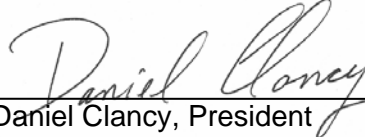
TEXT OF RULE

SECTION 1. TCS 10.03 (e) and (f) are created to read:

- (e) Any person who is a citizen of a country other than the United States if that person meets all of the following requirements:
 1. The person graduated from a high school in this state or received declaration of equivalency of high school graduation from this state.
 2. The person was continuously present in this state for at least 3 years following the first day of attending a high school in this state or immediately preceding receipt of a declaration of equivalency of high school graduation.
 3. The person enrolls in a district school and provides the district board with proof that the person has filed or will file an application for a permanent resident visa with U.S. Citizenship and Immigration Services as soon as the person is eligible to do so.
- (f) Any person verified by the department of veterans affairs as being a resident of this state under s. 38.24 (8) (a) Stats.

Dated this 22nd day of September, 2009.

Wisconsin Technical College System Board



Daniel Clancy, President
Wisconsin Technical College System



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
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Legislative Council Director

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **09-066**

AN ORDER to amend TCS 10.03 (3), relating to statutory residents.

Submitted by **TECHNICAL COLLEGE SYSTEM BOARD**

08-18-2009 RECEIVED BY LEGISLATIVE COUNCIL.

09-15-2009 REPORT SENT TO AGENCY.

RNS:MM



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-066

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 September 2008.]

2. Form, Style and Placement in Administrative Code

a. The treatment clause to the rule should be rewritten to read as follows: “SECTION 1. TCS 10.03(e) and (f) are created to read:”.

b. In s. TCS 10.03 (3) (e) (intro.), “any” should be capitalized.

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

a. In the analysis, citations to s. 38.22 (6), Stats., should indicate the specific statutory paragraph that is interpreted or cited as the source of agency authority. In addition, references to s. 38.22 (6) (e) should contain the notation “as created by 2009 Wisconsin Act 28”.

b. In s. TCS 10.03 (3) (f) “, Stats.” should be inserted at the end.

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

a. The analysis states that the new residency provision applies to persons who are not residents of Wisconsin. Section TCS 10.03 (3) (e) (intro.), however, in accordance with s. 38.22 (6) (e), Stats., applies to “any person who is a citizen of a country other than the United States.”

b. The analysis states that one condition of a person’s eligibility for in-state tuition under the new provision is that they “have been continuously present in the state for the three years following their enrollment in a Wisconsin high school.” The analysis should clarify that

the three-year period during which presence in the state is required begins on the first day the person attends high school in the state.

c. The rule would be more helpful if it specified what a district board may accept or require as "proof" under s. TCS 10.03 (e) 3.