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CLEARINGHOUSE RULE 19-034

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 December 2014.]

1. Statutory Authority

The department should review the statutes to ensure that it is citing all of the relevant provisions giving it authority to promulgate rules regarding educator licensing and educator preparation programs. For example, in addition to s. 115.28 (7) (a), Stats., the department could also cite to ss. 115.28 (7) (c) and (17) and 118.19 (4m), Stats.

2. Form, Style and Placement in Administrative Code

a. In the list of statutes interpreted, the department should reference all of the statutes relating to the types of licenses modified by the proposed rule, including ss. 118.19 and 118.194, Stats.

b. In the title of s. PI 34.011 (3), except for proper nouns, only the first letter of the first word should be capitalized. Therefore, it should be written as "MAINTAINING APPROVAL" rather than "MAINTAINING APPROVAL". [s. 1.05 (2) (c), Manual.] The same comment also applies to the title in s. PI 34.052 (7), in SECTION 23 of the proposed rule.

c. In s. PI 34.011 (3) (b), the format for the citation should be "under sub. (2)".

d. In the treatment clause for SECTION 20 of the proposed rule, the reference to "and (5) are" should be removed, and the sentence should be updated to reflect that change. Subsection (5) is treated (in proper sequence) in SECTION 22 of the proposed rule.

e. In SECTION 21 of the proposed rule, the creation of sub. (7) should be removed, as that is also created (in proper sequence) in SECTION 23 of the proposed rule. The treatment clause for SECTION 21 should also be updated accordingly.

f. The following comments apply to SECTION 26 of the proposed rule:

(1) The department should review s. PI 34.055 (2) (b) (intro.), as renumbered and amended in the proposed rule, and insert any missing text from current rule. For example, the phrase "under this section" following "s. 115.28 (17) (a), Stats." appears in current rule, but is not included in the proposed rule. If the phrase is intended to be removed, it should be shown with a strikethrough.

(2) The format for the new underscored title should be bold print with an initial capital letter, for section, rather than subsection, title formatting. [s. 1.05 (2) (b), Manual.]

g. The following comments apply to SECTION 27 of the proposed rule:

(1) In the treatment clause for the SECTION, it appears that the reference to "(3)" after identifying the new s. PI 34.0388 should be removed.

(2) The title from current rule should be inserted and shown with a strike-through, before the new underscored title. Also, the format for the new title should be bold print with an initial capital letter, for section, rather than subsection, title formatting. [ss. 1.05 (2) (b) and 1.06 (1) (a), Manual.]

(3) The department proposes to renumber s. PI 34.056 (3) to s. PI 37.0388. Once renumbered, the paragraphs will become subsections. Therefore, the department should change "(a)" to "(1)" in both the treatment clause and the proposed rule provision.

(4) The department should review s. PI 34.056 (3) (intro.), as renumbered and amended in the proposed rule, and insert any missing text from current rule.

h. In ss. PI 34.074 (1), 34.075 (1), 34.082 (1), and 34.089 (1), the titles in each subsection should be shown without underscoring, as the titles exist in current rule and are not amended in the proposed rule.

i. In the treatment clause for SECTION 32 of the proposed rule, and in the text shown, the department should insert "(2)" before "(e) 1.".

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

As the department is renumbering and amending provisions in ch. PI 34 in the proposed rule, the department should review all citations in other PI chapters that contain references to provisions within ch. PI 34, and correct any citations to this chapter as necessary. See, for example, the reference in s. PI 11.24 (7) (a) to s. PI 34.34 (16), which does not exist in the current or proposed rule. This and any other mistaken citations to provisions in ch. PI 34 should be corrected.

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

a. In the treatment clause for SECTION 2 of the proposed rule, the word "are" should be revised to "is".

b. In s. PI 34.011 (3) (intro.), the word "annual" should be revised to "annually".

c. The department should consider rephrasing s. PI 34.011 (3) (b) for clarity. As drafted, the sentence is inherently confusing because an innovative or experimental program is not in compliance with the general educator preparatory requirements of the chapter. If the department's intent is to lock an innovative program into remaining compliant with the chapter, generally, and with only the exceptions initially approved by the state superintendent, then the department should consider saying that with more specificity. For example, the department could say: "The educator preparation program is in compliance with the requirements of this chapter, modified as initially approved under s. PI 34.011 (2).".

d. In the treatment clause for SECTION 8 of the proposed rule, the department could insert a comma following "(4) (a) 3.".

e. In s. PI 34.029 (1g), the department defines "residential school" as including the Wisconsin educational services program for the deaf and hard of hearing and the Wisconsin center for the blind and visually impaired. Use of "includes" in a definition expands the scope of the definition to encompass other reasonably related examples not specifically enumerated. If there are only two residential schools in Wisconsin, as contemplated by the department, the phrasing could use "means" instead of "includes". Doing so would limit the definition to only those programs explicitly stated. [s. 1.01 (7) (c), Manual.]

f. Also in s. PI 34.029 (1g), consider revising both instances of the phrase "as given in" to the word "under", as both citations are to specific programs rather than to definitional terms.

g. The department should revise s. PI 34.033 (1) for clarity. For example, the proposed rule could read as: "A license issued under this section authorizes the license holder to be either a short-term substitute teacher or a long-term substitute in the subject area or position and grade level of ~~the~~ a license issued under subchs. VI, VII, and VIII, as determined by the license the applicant has held or is eligible to hold under this chapter or the equivalent license issued in another state.".

h. In s. PI 34.039 (1), an underscored comma should be inserted after "34.036".

i. The department should revise s. PI 34.0388 (intro.) in SECTION 27 of the proposed rule. As renumbered and amended from s. PI 34.056 (3), the provision would read as follows: "The state superintendent may issue a 3-year American Indian history, culture, and tribal sovereignty license of one of the tribes listed in s. PI 34.056 (1) to an applicant who meets all of the requirements:". The sentence does not make sense and should be reviewed and revised to clearly express the department's intent.

j. The department should review the purpose and utility of renumbering some, but not all, of the current rule provisions relating to American Indian-related licenses. [See SECTIONS 24 to 27 of the proposed rule.] What is the purpose? In the plain language analysis of the proposed rule, the department notes that one of the changes to be made is to create a renewal period for certain

American Indian-related licenses. However, renumbering the rule provisions does not appear to accomplish this goal. If a renewal mechanism is desired, the department should create new provisions outlining how renewal of the licenses would work.

Renumbering the rule provisions, as proposed, will place some American Indian-related licenses in the subchapter regarding licensing stages, but not all of them. After review, if the department still intends to move the provisions, then should the titles of the renumbered provisions include a reference to "Tier I" like the licensing provisions that will precede the renumbered provisions?