



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 21-007

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

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

a. SECTION 3 of the proposed rule adds new language to s. PI 9.04 (1) stating that a designated employee “shall be responsible for providing the complainant a copy of the school district’s discrimination policy and procedure and shall assist the complainant in filing a written complaint which meets the procedural requirements specified in this section.”. The rule language could be rephrased to state that the employee “must provide” a copy of the discrimination policy. Additionally, should the reference to “procedure” instead be written as “procedures”?

b. In SECTION 4 of the proposed rule, the newly created s. PI 9.04 (2) (c) requires that a school district’s procedure for receiving and resolving complaints must “require a final written determination of the complaint be provided to the complainant within 60 days...”. The provision refers to a written determination, but does not explain what the determination must be, though the following sentence creates an inference that the determination is whether or not discrimination occurred.

Is the determination a decision as to whether discrimination in violation of s. 118.13 (1), Stats., has occurred? If so, the text should state this directly within the sentence.

c. SECTION 10 of the proposed rule creates new requirements for the annual evaluation a school district must perform about the status of nondiscrimination and equality within the district. The section creates pars. (d) and (e), which require the evaluation to include trends and patterns of disciplinary actions “disaggregated by pupil protected class status”, as well as participation trends and school district support of athletic, extracurricular, and recreational activities “disaggregated by pupil protected class status”.

The language appears to require school districts to evaluate disciplinary actions, participation, and school support for activities broken down by every protected class status. Is it the department’s intention that school districts evaluate participation in athletics and disciplinary actions based on, for example, student religion, ancestry, creed, and parental status? Further, it is

unclear how “school district support of” athletics and extracurricular activities could be disaggregated by protected class status.

d. SECTION 17 of the proposed rule amends provisions of s. PI 9.08 (1) by replacing the term “board” with “school district”. However, the proposed changes do not affect existing language that allows a complainant to appeal a “negative determination” by the school district. This language could be amended to clarify what is meant by a “negative determination”. Does this refer to a determination by the school district that discrimination in violation of s. 118.13 (1), Stats., did not occur?

e. SECTION 18 of the proposed rule adds a new paragraph to s. PI 9.08 (2), a subsection that enumerates actions the State Superintendent may choose to take. The newly created par. (d) provides that the Superintendent may “make available the results of the annual compliance report required under PI 9.07 (2) upon request”. However, s. PI 9.07 (2) requires each individual school district to submit a compliance report. Therefore, it appears the word “the” in newly created par. (d) should be changed to allow the Superintendent to make available results of “a” or “any” compliance report from a district.