

Promulgation of Administrative Rules Policy

Adopted: September 16, 2010

Last Revised: September 16, 2010

This policy is intended to serve as the reference document regarding any delegation of authority from the Board to the Secretary in relation to administrative rules. The latest version of this policy shall remain in effect until amended or terminated by the Boards.

Administrative Rules - General

An administrative rule is a regulation, standard, policy statement, or order of general application promulgated by a state agency. Administrative rules have the force and effect of law. Rules are issued by an agency to implement or interpret provisions of statutes that are enforced or administered by the agency, or to establish procedures for the agency to follow in administering programs.

Delegation of Authority - General

Wisconsin law provides that the Board shall approve rules promulgated by the Secretary for the efficient administration of the fund or the benefit plans. The law permits the board to delegate its powers as deemed necessary or desirable. ¹

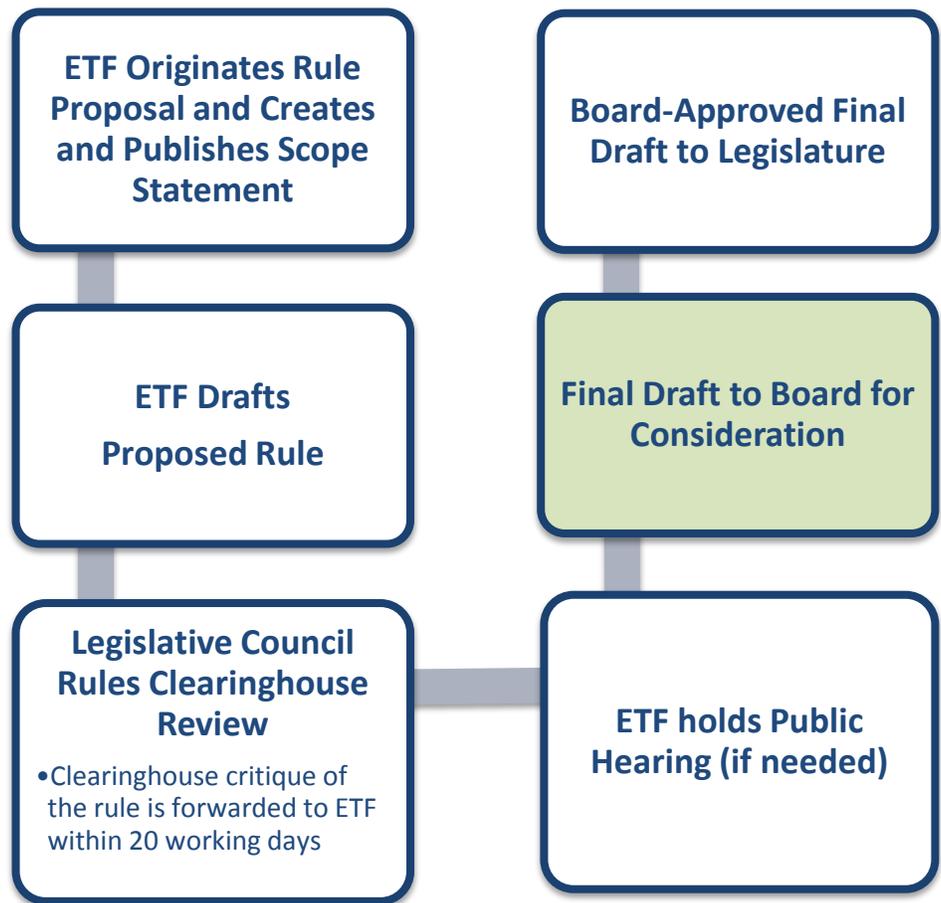


Diagram of Administrative Rule Process with Delegated Authority

¹ 40.03 Powers and duties. (1) EMPLOYEE TRUST FUNDS BOARD. The board:

(L) May delegate powers and duties as deemed necessary or desirable.

(m) Shall approve or reject all administrative rules proposed by the secretary under sub. (2) (i).

(2) SECRETARY. The secretary:

(i) Shall promulgate, with the approval of the board, all rules, except rules promulgated under par. (ig) or (ir), that are required for the efficient administration of the fund or of any of the benefit plans established by this chapter. In addition to being approved by the board, rules promulgated under this paragraph relating to teachers must be approved by the teachers retirement board and rules promulgated under this paragraph relating to participants other than teachers must be approved by the Wisconsin retirement board, except rules promulgated under s. 40.30.

Emergency Rules

Under Wis. Stat. § 227.24, in emergency situations state agencies may promulgate rules without complying with the usual procedures. However, unless the authority is delegated, Chapter 40 would require the Department to first obtain Board approval of the emergency rule. Using the expedited procedure in the statute to issue emergency rules, an agency must find the preservation of the public peace, health, safety or welfare necessitates the bypassing of normal rule-making procedures, unless the Legislature specifically exempts an agency from making these findings. Emergency rules are effective upon being published in the Wisconsin State Journal. The emergency rule has the force and effect of law and may be suspended under the same process that is applied to permanent rules. Emergency rules are in effect for 150 days and, upon petition to the Legislature's Joint Committee for Review of Administrative Rules, can be extended up to an additional 120 days with no single extension to exceed 60 days. A permanent rule must be promulgated using normal procedures.

SPECIFIC DELEGATION	DATE OF DELEGATION		
	Wisconsin Retirement Board	Teachers Retirement Board	Employee Trust Funds Board
File Scope Statements without prior Board review ² ; Department to provide quarterly reports of status of rules.	12/09/2004	12/09/2004	12/10/2004
Submit draft of proposed rules to the Legislative Council Rules Clearinghouse	12/09/2004	12/09/2004	12/10/2004
Make necessary technical changes or other non-substantive changes to the Board-approved Final Draft prior to submission to the Legislature with a duty to report all such changes or extensions to the Board as soon as practicable.	9/16/2010	9/16/2010	9/16/2010
Promulgate emergency rules, with duty to report all such rules to the Board as soon as practicable.	9/16/2010	9/16/2010	9/16/2010
Request extensions to emergency rules as applicable with a duty to report all such changes or extensions to the Board as soon as practicable.	9/16/2010	9/16/2010	9/16/2010

² Filing a scope statement does not commit the Department or the Boards to any specific course of action with respect to revision of an administrative rule.