

JAN 10 2000

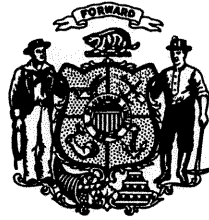


WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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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 99-169

AN ORDER to create chapter PI 44, relating to alternative education grants.

Submitted by **DEPARTMENT OF PUBLIC INSTRUCTION**

12-21-99 RECEIVED BY LEGISLATIVE COUNCIL.

01-07-00 REPORT SENT TO AGENCY.

RS:RW:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

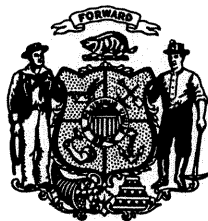
Comment Attached YES NO

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CLEARINGHOUSE RULE 99-169

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. In s. PI 44.02 (2), the word "defined" should be replaced by the word "given."
- b. In s. PI 44.03 (1) (b), the statutory citation does not exist and should be reviewed. Also, the acronym "CESA" should be defined or spelled out. [See, also, s. PI 44.05 (3) (d).]
- c. In s. PI 44.03 (2), "pupils" should not be in the possessive form.
- d. In s. PI 44.04 (intro.), the phrase "an eligible applicant" should be replaced by the phrase "a school board seeking a grant."
- e. In s. PI 44.04 (3), the reference to "this alternative education program" should be changed to "the alternative education program."
- f. Section PI 44.04 (4) should conclude with the phrase "of the alternative education program."
- g. In s. PI 44.04 (5), the phrase "program implementation" should be replaced by the phrase "implementation of the alternative education program."
- h. In s. PI 44.05 (3), pars. (d), (e) and (f) do not follow grammatically from the introduction and are not structurally equivalent to pars. (a), (b) and (c). Subsection (3) (d), (e)

and (f) should be consolidated into a new sub. (4) and the remaining subsections should be renumbered accordingly.

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

a. In the enabling legislation (Act 9, SECTION 2048m), the Department of Public Instruction is directed to encourage "rural school districts and consortia of school districts" to apply for the alternative education grants. The rule contains explicit language in s. PI 44.05 (3) (d) which gives preference to cooperative proposals of multiple school districts and to cooperative educational service agency boards. However, none of the criteria listed in s. PI 44.05 (3) directly references or encourages "rural school districts" to apply.

b. The department may want to consider a mechanism or process for the department to evaluate the success of a funded program prior to the conclusion of the five-year grant period. Such an evaluation could be used as the basis for modifying the original program or for adjusting the grant level. As drafted, the rule only provides for the submission of reports and information on an annual basis, but does not provide for any department evaluation.

**PROPOSED ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
CREATING RULES**

The state superintendent of public instruction hereby proposes to create Chapter PI 44, relating to alternative education grants.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: ss. 115.366 (2) and 227.11 (2) (a), Stats.

Statute interpreted: s. 115.366, Stats.

1999 Wisconsin Act 9 created an alternative education grant program under s. 115.366, Stats.. The Act also requires the department to promulgate rules to administer the program and to define alternative education programs to be funded.

In compliance with the Act, the proposed rules establish criteria and procedures for awarding alternative education program grants. The definition of an alternative education program reflects the statutory definition of alternative education programs under s. 115.28 (7) (e), Stats.

The Act appropriated \$5,000,000 for the 2000-2001 school year. The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department will send grant application materials to school districts in January. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

Grants will be awarded for a 5 year period (100% for the first 3 years, 60% for the 4th year, 40% for the 5th year). Grant recipients: 1) may not use these funds to supplant alternative education program funding received from other local, state or federal sources, and 2) shall agree to participate in any state level evaluations of the program as required by the state superintendent.

The department intends to promulgate these rules as emergency rules in March 2000.

SECTION 1. Chapter PI 44 is created to read:

CHAPTER PI 44

GRANTS FOR ALTERNATIVE EDUCATION PROGRAMS

PI 44.01 Purpose. Under s. 115.366, Stats., beginning in the 2000-2001 school year, school districts and consortia of school districts may apply to the state superintendent for an alternative education program grant as defined by the state superintendent. This chapter sets forth criteria and procedures for awarding alternative education program grants.

PI 44.02 Definitions. In this chapter:

(1) "Alternative education program" means an instructional program, approved by the school board, that utilizes successful alternative or adaptive school structures and teaching techniques and that is incorporated into existing, traditional classrooms or regularly scheduled curricular programs or that is offered in place of regularly scheduled curricular programs. "Alternative educational program" does not include a private school or a home-based private educational program.

(2) "School board" has the meaning ^{given} defined in s. 115.001 (7), Stats.

(3) "State superintendent" means the state superintendent of public instruction for the state of Wisconsin.

PI 44.03 Eligible applicants and program requirements. (1) A school board or a school board in cooperation with one or more of the following may apply to the state superintendent for a grant under this chapter:

(a) Another school board under an agreement under s. 66.30, Stats.

(b) A CESA board under s. 116.03 (3), Stats. *doesn't exist*

(2) An alternative education program funded under this chapter shall be designed for pupils' having difficulty *X* succeeding in the regular school setting as evidenced by, but not limited to, any of the following:

(a) Academic failure.

(b) Truancy.

(c) Expulsion or suspension.

(d) Disruptive behavior.

(e) Criminal involvement.

(f) Violent behavior.

(g) Alcohol and other drug abuse involvement.

PI 44.04 Grant application requirements. Annually, ~~an eligible applicant~~ *a sch. bd. seeking a grant* under this chapter shall submit an application that includes all of the following:

(1) The need for the alternative education program.

(2) The type of pupils who will be served by the alternative education program.

(3) Evidence of collaboration and coordination to develop or maintain partnerships that will help facilitate ^{the} this alternative education program.

(4) An outline of the measurable program goals, objectives, activities, and related timelines. *of the a.e.p.*

(5) A schedule for ~~program~~ implementation *of the a.e.p.*

(6) An explanation of how the alternative education program will continue at the completion of the grant period.

(7) A description of how the alternative education program will be evaluated during its implementation and at the conclusion of the grant period.

NOTE: Form PI-9710, Alternative Education Program Grant Application, may be obtained at no charge from the Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841.

PI 44.05 Review of applications and awarding of grants. (1) The state superintendent, annually, shall establish funding limits for programs under this chapter based on the amount appropriated for the program under s. 20.255 (2) (cf), Stats.. The state superintendent shall inform school districts of the funding limits by letter which will accompany application materials for a program under this chapter.

(2) The state superintendent shall determine the amount of funds to be awarded to each applicant. The state superintendent shall award grants for a 5 year period, if funding is available, as follows:

(a) A grant shall be awarded at 100% of the amount originally granted for the first 3 years.

(b) A grant shall be awarded at 60% of the amount originally granted for the fourth year.

(c) A grant shall be awarded at 40% of the amount originally granted for the fifth year.

(3) The state superintendent shall determine which of the applicants will receive grants under this chapter using the following criteria:

(a) Programs in which the goals and objectives relate to the desired effect of the alternative education program.

(b) Programs in which activities are appropriate to the goals and objectives of the alternative education program.

(c) Programs that demonstrate the adequacy of the schedule of implementation and the extent to which continuation of the program activities is ensured after the grant period is completed.

(d) To the extent possible, grants shall benefit the greatest number of school districts and pupils. Therefore, preference in awarding grants may be given to programs developed and operated in cooperation with other school districts or CESA boards. *[See s. 115.366(1) ... revive school districts ...]*

(e) To the extent possible, the grants shall be distributed equally throughout the state.

(f) To the extent possible, grants shall be awarded to school districts of varying sizes, as determined by enrollment.

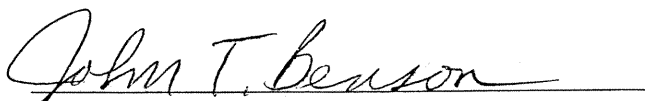
sub. (4) (4) Grants awarded may not be used to supplant alternative education program funding received from other local, state or federal sources.

(c) (5) Grant recipients shall agree to participate in any state level evaluations of the program as required by the state superintendent.

115.366 [ESC 7048 m of 10-9]

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

Dated this 21st day of December, 1999


John T. Benson
State Superintendent



State of Wisconsin Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

FEB 16 2000

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

February 11, 2000

Dear Colleague:

The Department of Public Instruction will hold public hearings to consider emergency and proposed permanent rules, relating to alternative education grants. Emergency rules were promulgated by the department effective January 28, 2000. The hearings will be held as follows:

DATE AND TIME

LOCATION

March 9, 2000
5:30 - 7:00 p.m.

Fennimore
CESA 3
1300 Industrial Drive
Conference Room

March 14, 2000
5:30 - 7:00 p.m.

Gillett
CESA 8
223 West Park Street
Birch Room

March 15, 2000
5:30 - 7:00 p.m.

Chippewa Falls
CESA 10
725 West Park Avenue
Room 1

March 16, 2000
5:30 - 7:00 p.m.

Milwaukee
Administration Building
5225 W. Vliet Street

The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Larry Allen, Director, Education Options, at (608) 267-2402 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

For a copy of the rule and the fiscal estimate, please contact Mr. Allen or Lori Slauson, Administrative Rules and Federal Grants Coordinator, Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, WI 53707. Written comments on the proposed rules received at the above address no later than March 20, 2000, will be given the same consideration as testimony presented at the hearing.

1999 Wisconsin Act 9 created an alternative education grant program under s. 115.366, Stats. The Act also requires the department to promulgate rules to administer the program and to define alternative education programs to be funded.

In compliance with the Act, the proposed rules establish criteria and procedures for awarding alternative education program grants. The definition of an alternative education program reflects the statutory definition of alternative education programs under s. 115.28 (7) (e), Stats.

The Act appropriated \$5,000,000 for the 2000-2001 school year. The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department will send grant application materials to school districts in January. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

Grants will be awarded for a 5 year period (100% for the first 3 years, 60% for the 4th year, 40% for the 5th year). Grant recipients: 1) may not use these funds to supplant alternative education program funding received from other local, state or federal sources, and 2) shall agree to participate in any state level evaluations of the program as required by the state superintendent.

Sincerely,



Lori L. Slauson
Administrative Rules and Federal Grants Coordinator



State of Wisconsin
Department of Public Instruction

P144

JAN 31 2000

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

January 28, 2000

Members of the Wisconsin Senate
State Capitol
Madison, WI 53702

Dear Senator:

Attached, pursuant to s. 227.24 (3), Stats., is a copy of emergency rules relating to alternative education grants for your information. Emergency rules are necessary to clarify the eligibility criteria and procedures for school districts or consortia of school districts to apply for funds under the program. The department is in the process of developing permanent rules.

1999 Wisconsin Act 9 created an alternative education grant program under s. 115.366, Stats.. The Act also requires the department to promulgate rules to administer the program and to define alternative education programs to be funded.

In compliance with the Act, the proposed rules establish criteria and procedures for awarding alternative education program grants. The definition of an alternative education program reflects the statutory definition of alternative education programs under s. 115.28 (7) (e), Stats.

The Act appropriated \$5,000,000 for the 2000-2001 school year. The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department will send grant application materials to school districts in January. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

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If you have any questions on these emergency rules, or the proposed permanent rules, please contact Larry Allen, Director, Education Options, at (608) 267-2402 or Lori Slauson, Administrative Rules Coordinator, Policy and Budget, at (608) 267-9127.

Sincerely,

Steven B. Dold
Deputy State Superintendent

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
ADOPTING EMERGENCY RULES**

The state superintendent of public instruction hereby proposes to create Chapter PI 44, relating to alternative education grants.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: ss. 115.366 (2) and 227.11 (2) (a), Stats.

Statute interpreted: s. 115.366, Stats.

1999 Wisconsin Act 9 created an alternative education grant program under s. 115.366, Stats.. The Act also requires the department to promulgate rules to administer the program and to define alternative education programs to be funded.

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The Act appropriated \$5,000,000 for the 2000-2001 school year. The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department will send grant application materials to school districts in January. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

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SECTION 1. Chapter PI 44 is created to read:

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GRANTS FOR ALTERNATIVE EDUCATION PROGRAMS

PI 44.01 Purpose. Under s. 115.366, Stats., beginning in the 2000-2001 school year, school districts and consortia of school districts may apply to the state superintendent for an alternative education program grant as defined by the state superintendent. This chapter sets forth criteria and procedures for awarding alternative education program grants.

PI 44.02 Definitions. In this chapter:

(1) "Alternative education program" means an instructional program, approved by the school board, that utilizes successful alternative or adaptive school structures and teaching techniques and that is incorporated into existing, traditional classrooms or regularly scheduled curricular programs or that is offered in place of regularly scheduled curricular programs. "Alternative educational program" does not include a private school or a home-based private educational program.

(2) "Consortia of school districts" means a school board in cooperation with another school board under an agreement under s. 66.30, Stats., or a CESA board under s. 116.03 (3), Stats.

(3) "School board" has the meaning defined in s. 115.001 (7), Stats.

(4) "State superintendent" means the state superintendent of public instruction for the state of Wisconsin.

PI 44.03 Eligible applicants and program requirements. (1) A school district or a consortia of school districts may apply to the state superintendent for a grant under this chapter.

(2) An alternative education program funded under this chapter shall be designed for pupils' having difficulty succeeding in the regular school setting as evidenced by, but not limited to, any of the following:

- (a) Academic failure.
- (b) Truancy.
- (c) Expulsion or suspension.
- (d) Disruptive behavior.
- (e) Criminal involvement.
- (f) Violent behavior.
- (g) Alcohol and other drug abuse involvement.

PI 44.04 Grant application requirements. Annually, an eligible applicant under this chapter shall submit an application that includes all of the following:

- (1) The need for the alternative education program.
- (2) The type of pupils who will be served by the alternative education program.
- (3) Evidence of collaboration and coordination to develop or maintain partnerships that will help facilitate this alternative education program.
- (4) An outline of the measurable program goals, objectives, activities, and related timelines.
- (5) A schedule for program implementation.
- (6) An explanation of how the alternative education program will continue at the completion of the grant period.
- (7) A description of how the alternative education program will be evaluated during its implementation and at the conclusion of the grant period.

NOTE: Form PI-9710, Alternative Education Program Grant Application, may be obtained at no charge from the Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841.

PI 44.05 Review of applications and awarding of grants. (1) The state superintendent, annually, shall establish funding limits for programs under this chapter based on the amount appropriated for the program under s. 20.255 (2) (cf), Stats.. The state superintendent shall inform school districts of the funding limits by letter which will accompany application materials for a program under this chapter.

(2) The state superintendent shall determine the amount of funds to be awarded to each applicant. The state superintendent shall award grants for a 5 year period, if funding is available, as follows:

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(b) Programs in which activities are appropriate to the goals and objectives of the alternative education program.

(c) Programs that demonstrate the adequacy of the schedule of implementation and the extent to which continuation of the program activities is ensured after the grant period is completed.

(d) To the extent possible, grants shall benefit the greatest number of school districts and pupils. Therefore, preference in awarding grants may be given to programs developed and operated in cooperation with other school districts or CESA boards.

(e) To the extent possible, the grants shall be distributed equally throughout the state.

(f) To the extent possible, grants shall be awarded to school districts of varying sizes, as determined by enrollment.

(4) Grants awarded may not be used to supplant alternative education program funding received from other local, state or federal sources.

(5) Grant recipients shall agree to participate in any state level evaluations of the program as required by the state superintendent.

FINDING OF EMERGENCY

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

1999 Wisconsin Act 9 appropriated \$5,000,000 to be awarded by the department to eligible school districts or consortia of school districts in the 2000-2001 school year. Emergency rules are necessary to clarify the eligibility criteria and procedures for school districts or consortia of school districts to apply for funds under the program.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Dated this ___ day of January, 2000

John T. Benson
State Superintendent

FISCAL ESTIMATE FORM

1999 Session

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB #

Introduction #

Admin. Rule # Chapter PI 44

Subject

Alternative Education Grants

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation
 Decrease Existing Appropriation
 Create New Appropriation

Increase Existing Revenues
 Decrease Existing Revenues

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG

SEG-S

Affected Ch. 20 Appropriations

s. 20.255 (2) (cf)

Assumptions Used in Arriving at Fiscal Estimate:

Under s. 20.255 (2) (cf), Stats., 1999 Wisconsin Act 9 appropriated \$5,000,000 for the department to award grants to school districts and consortia of schools districts for alternative education programs, as defined by the department by rule. As required by the Act, the rule defines alternative education program and establishes criteria and procedures for awarding alternative education program grants. The rules will have no fiscal effect on local governments or small businesses.

Since the Act did not allocate staff resources to administer the program, the department is reallocating limited state and federal funds for this purpose.

Long-Range Fiscal Implications:

Prepared By:

Lori Slauson 267-9127
Department of Public Instruction

Authorized Signature / Telephone No.

Gina Frank-Reece
Gina Frank-Reece (608) 266-2804

Date

12/14/99

JAN 18 2000



Memorandum

STATE OF WISCONSIN
DEPARTMENT OF PUBLIC INSTRUCTION

DATE: January 14, 2000
TO: Senator Robson and Representative Grothman, Co-Chairs JCRAR
FROM: Lori L. Slauson, Administrative Rules and Federal Grants Coordinator
SUBJECT: Emergency Rules

Attached for your review are emergency rules relating to:

- Grants for alcohol and other drug abuse (AODA) programs.
- Grants for alternative education programs.
- State aid for achievement guarantee contracts and aid for debt service.
- Supplemental aid for school districts with a large area.
- Aid for public library system payment adjustments.

The statement of emergency is included in each rule draft. The department has submitted these rules as proposed permanent rules.

Except for rules relating to aid for public library system payment adjustments (to be published and effective in April) and grants for AODA programs (to be published and effective in March), the department will submit these emergency rules to be published in the Wisconsin State Journal by the end of January. If you have any questions, please call me at 267-9127.

Thank you.