

## Clearinghouse Rule 24-020

### PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AMENDING RULES

The scope statement for this rule, SS 012-24, was published in Register No. 817B, on January 29, 2024, and approved by State Superintendent Jill K. Underly on February 13, 2024.

The State Superintendent of Public Instruction hereby proposes an order to amend ss. PI 40.03 (title) and 40.06 (1) (a) (intro.), 1., and (d); and to create ss. PI 40.01 (2r) and 40.06 (1) (cm) and (3) (c), relating to changes to PI 40 as a result of 2021 Wisconsin Act 217.

---

### ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

**Statute interpreted:** s. 118.55, Wis. Stats.

**Statutory authority:** s. 118.55 (9), Wis. Stats.

**Explanation of agency authority:**

Under s. 118.55 (9), Wis. Stats., the State Superintendent shall promulgate rules to implement and administer the Early College Credit program.

**Related statute or rule:**

N/A

**Plain language analysis:**

The proposed rule is a technical change to conform ch. PI 40 with the changes to statute as a result of 2021 Wisconsin Act 217. 2021 Wisconsin Act 217 added references to independent charter school governing boards throughout the statutes governing the Early College Credit Program (ECCP), thus permitting students enrolled in independent charter schools to participate in the ECCP in the same manner that private and public-school students may participate. As a result, the proposed rule is intended to align ch. PI 40 with changes in statute by incorporating references to independent charter school governing boards throughout the rule.

**Summary of, and comparison with, existing or proposed federal regulations:**

N/A

**Summary of any public comments and feedback on the statement of scope for the proposed rule that the agency received at a preliminary public hearing and comment period held and a description of how and to what extent the agency took those comments into account and drafting the proposed rule:**

The Department held a preliminary public hearing and comment period on February 9, 2024, and did not receive any comments on the statement of scope for the proposed rule.

**Comparison with rules in adjacent states:**

Illinois (23 Illinois Administrative Code 1009): The Illinois Department of Education provides for a Dual Credit program, which permits high school students to enroll in a college course for both high school and college credit. The state also

permits districts to enter into joint agreements with community college districts and other school districts to provide career education or advanced vocational training of 11th and 12th grade students. The rules permit appropriate measures to assess and grant eligibility for dual credit to students and specify that the determination of whether the course is offered for concurrent high school and college credit is made at the secondary level, according to the school's policies and district practices.

Iowa (Iowa Administrative Code Chapter 281-22): The Iowa Department of Education created an umbrella program called Senior Year Plus (SYP) that encompasses Concurrent Enrollment, Postsecondary Enrollment Options Program (PSEO), Advanced Placement (AP), Career Academies, Regional Academies, and Project Lead the Way. The SYP program was implemented to provide increased and more equal access to college credit and AP courses. SYP programs offer students an opportunity to enroll in college coursework and, in most cases, receive both high school and college credit simultaneously. The rules establish the criteria pupils and eligible postsecondary institutions must meet in order to participate in an SYP program.

Michigan (Michigan Administrative Code Section R 388.151-388.155): The Michigan Department of Education provides for payment from a school district's foundation grant for enrollment of certain eligible high school students in postsecondary courses of education under its Postsecondary Enrollment Options program. The rules and underlying statutes establish eligibility criteria for students, institutions, and courses; require eligible charges (tuition, mandatory course or material fees, and registration fees) to be billed to a school district; establish enrollment and credit requirements; requires school districts to provide counseling and information to eligible students and their parents; and requires intermediate school districts to report to the Department of Education.

Minnesota (Minnesota Statutes section 124D.09): The Minnesota Department of Education permits 10th, 11th, and 12th grade students to earn college credit while still in high school through enrollment in and successful completion of college-level courses through its Postsecondary Enrollment Options program. The statutes provide that college-level courses may be provided in a high school (referred to as concurrent enrollment, or "college in the high school"), a postsecondary institution, or another location according to an agreement between a public school board and the governing body of an eligible public postsecondary system or an eligible private postsecondary institution.

### **Summary of factual data and analytical methodologies:**

Chapter PI 40 of the Wisconsin Administrative Code contains the rules governing the ECCP, which permits students in grades 9-12 at either a public or private school to attend and earn credit at an institution of higher education in Wisconsin. An eligible student may participate in ECCP at either no cost or a reduced cost, depending on whether the student earns postsecondary credit, high school credit, or both, and whether the student's school district or private school offers a comparable course. Since the rules were promulgated, 2021 Wisconsin Act 217 added references to independent charter school governing boards throughout the ECCP statute, thus permitting students enrolled in independent charter schools to participate in the ECCP in the same manner that private and public-school students may participate. As a result, the department proposes a technical change to ch. PI 40 to align it with changes in statute and incorporate references to independent charter school governing boards throughout the rule. Without a rule change, the department will have rules that are not fully aligned with the statutes.

### **Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

N/A

### **Anticipated costs incurred by private sector:**

N/A

### **Effect on small business:**

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

**Agency contact person: (including email and telephone)**

Carl Bryan  
Legislative Policy Coordinator  
Wisconsin Department of Public Instruction  
[adminrules@dpi.wi.gov](mailto:adminrules@dpi.wi.gov)  
(608) 266-3275

**Place where comments are to be submitted and deadline for submission:**

As provided in s. 227.16 (2) (b), Stats., there is no requirement that a public hearing be held for this rule because the proposed rule brings an existing rule into conformity with a statute that has been changed. However, written comments on the rule may be submitted until March 19, 2024, by completing the form on the Legislature's website.

---

**RULE TEXT**

**SECTION 1. PI 40.01 (2r) is created to read:**

**PI 40.01 (2r)** "Governing board of an independent charter school" means a governing board of an independent charter school authorized under s. 118.40 (2r) or (2x), Stats.

**SECTION 2. PI 40.03 (title) is amended to read:**

**PI 40.03** Notification to school board~~or~~, governing body of a private school, or governing board of an independent charter school.

**SECTION 3. PI 40.06 (1) (a) (intro.) and 1. are amended to read:**

**PI 40.06 (1) (a)** A school board~~or~~, governing body of a private school, or governing board of an independent charter school may deny high school credit for a postsecondary course attended under s. 118.55, Stats., if any of the following apply:

**1.** The postsecondary course is comparable to a course offered by the school district, private school, or independent charter school in which the student is enrolled, as determined under sub. (2).

**SECTION 4. PI 40.06 (1) (cm) is created to read:**

**PI 40.06 (1) (cm)** Except as provided under par. (a), a governing board of an independent charter school shall grant high school credit for a course attended under s. 118.55, Stats., if the postsecondary course meets any criteria for granting a high school diploma, including any criteria contained in the charter school's policy under s. 118.33 (1) (f) 2., Stats.

**SECTION 5. PI 40.06 (1) (d) is amended to read:**

**PI 40.06 (1) (d)** A school board~~and~~, governing body of a private school, and governing board of an independent charter school shall evaluate a postsecondary course for high school credit under this subsection using the same method and criteria it would to approve a course the school board~~or~~, governing body of a private school, or governing board of an independent charter school offered for high school credit.

**SECTION 6. PI 40.06 (3) (c) is created to read:**

**PI 40.06 (3) (c)** A governing board of an independent charter school's written notification under s. 118.55 (3) (b), Stats., regarding comparability of courses, satisfaction of high school graduation requirements, or the number of high school credits to be awarded shall inform the pupil of the right to appeal the governing board's decision to the governing board within 30 days of the decision.

**SECTION 7. EFFECTIVE DATE:**

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 \_\_\_\_\_ day of \_\_\_\_\_, 2024

---

Jill K. Underly, PhD  
State Superintendent