

Clearinghouse Rule 08-018**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
ADOPTING EMERGENCY RULES**

The state superintendent of public instruction hereby creates Chapter PI 16, relating to four-year-old kindergarten grants.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: Section 115.445, Stats.

Statutory authority: Sections 115.445 (2) (b) and (3) and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 115.445 (3), Stats., requires the department to promulgate rules to implement the program. Section 115.445 (2) (b), Stats., requires the department to define "community approaches to early education" as school boards that use this approach must receive preference in receiving funds.

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

Related statute or rule: N/A

Plain language analysis:

2007 Wisconsin Act 20, the biennial budget bill, created s. 115.445, Stats., relating to 4-year-old kindergarten grants. Beginning in the 2008-09 school year, the Act appropriated \$3,000,000 and allows school boards to apply to the department for a 2-year grant to implement a 4-year-old kindergarten program.

In the first school year of the grant, the school board may receive up to \$3,000 for each 4-year-old kindergarten pupil; in the succeeding school year, \$1,500 per 4-year-old pupil. If funds are insufficient, the department may prorate the payments.

The department is required to promulgate rules for the program and particularly to define "community approaches to early education" as school boards that use this approach must receive preference in receiving funds.

The proposed rule establishes criteria and procedures for awarding grants to eligible school districts.

These rules will be promulgated as emergency rules in February in order to establish application criteria and procedures in time for the program to operate in the upcoming school year.

Summary of, and comparison with, existing or proposed federal regulations: N/A

Comparison with rules in adjacent states:

Illinois has an early childhood block grant program serving children ages 3 years old to kindergarten enrollment age. The block grant provides for three programs: preschool for at-risk children, preschool for all children and social and emotional consultation services. It appears funds are made available on a competitive basis as opposed to Wisconsin's per child

amount. Funds are available to an eligible applicant regardless of whether or not they have an existing program. Eligible applicants include public or private not-for-profit or for-profit entities with experience in providing educational, health, social and/or child development services to young children and their families. Grantees must collaborate with its local Head Start program. A program may receive continued funding if a need continues to exist for the program and in the previous year, the applicant complied with the terms and conditions of the grant it received.

Iowa has a statewide voluntary preschool program for four-year-old children whose families choose to access such programs. Funds are made available (it appears on a competitive basis as opposed to Wisconsin's per child amount) to assist local school districts in the implementation of these programs. Funds are available to any eligible district regardless of whether or not they have an existing program. Only public schools may apply for funds. Programs must be approved by the department of education and must collaborate with community based providers, such as Head Start, licensed child care centers, etc. The programs must meet specific personnel, ratio of staff to children, maximum class size, instruction time, space, materials, meal and parental involvement standards. If the number of requests exceeds funding available, priority is given to high poverty school districts and to school districts that do not have existing preschool programming (as opposed to Wisconsin's prorating of funds per pupil).

Michigan and *Minnesota* – do not have rules relating to grants for 4-year-old kindergarten.

Summary of factual data and analytical methodologies:

Wisconsin recognizes the importance of education in the lives of very young children. The state constitution sets the stage for school responsibilities beginning with 4-year-olds, and state and federal laws require school services for children with disabilities beginning at age three. A child's success in school is dramatically influenced by their experiences before school age, including health care and quality early care and education. Schools and communities across the state are sharing responsibilities to ensure that quality opportunities are available for young children before they enter school and during their early school years. A coordinated plan to expand access and improve the quality of early learning opportunities is needed to build a foundation for a quality statewide system that builds community, maximizes resources, and assures quality environments and competent professionals.

While state law recognizes the importance of parental involvement and provides a financial incentive to incorporate it into 4K programs, no equivalent incentive is provided for districts using "community approaches." During the 2005-06 school year, 234 of the state's 426 school districts operated a 4K program, but only 33 of these districts used community approaches, where school districts work cooperatively with child care and Head Start partners. Community approaches help maximize existing resources, minimize the number of transitions young children must make among programs, and reduce barriers to participation by increasing access to full-day programs for working families and to health and social services for low-income children. The integration of multiple types of funding sources and a wide range of early care providers enhances overall quality of services to children and families. However, the planning and community building needed to design, implement and sustain a 4K program using a community approach is time consuming and requires ongoing staff effort.

The department is committed to expanding the number of 4K programs offered in the state. Support for the approximately 100 school districts currently exploring the implementation of a 4K program is critical. In the past, funding through a grant from the Trust for Early Education (TEE), allowed the department to establish a network of support (Forces for Four-Year Olds Advisory Committee, Preserving Early Childhood Conference) and to provide resource materials to districts exploring or implementing 4K programs. This temporary private funding is no longer available, but the demand and need for support to these districts continues.

This 4-year-old-kindergarten grant program will help to support some school districts in implementing their 4K programs and will give preference to programs that use community approaches to early education. The rule proposal is based on extensive research and developed through cooperation among four of the department's divisions, with input from two other state agencies. It builds on past successes and incorporates plans and efforts endorsed by the Forces for Four-Year Olds Advisory Committee.

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 indirectly benefit small business as priority is given to 4K programs that involve child care centers. However, the proposed rules will not have a significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Agency contact person: (including email and telephone)

Jill Haglund, Early Childhood Consultant, (608) 267-9625, jill.haglund@dpi.state.wi.us.

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

The department will publish a hearing notice in the *Administrative Register* which will include this information.

SECTION 1. Chapter PI 16 is created to read:

CHAPTER PI 16

FOUR-YEAR-OLD KINDERGARTEN GRANTS

PI 16.01 Purpose. This chapter sets forth criteria and procedures for awarding grants to eligible school districts to implement a 4-year-old kindergarten program under s. 115.445, Stats. Funds are awarded from the appropriation under s. 20.255 (2) (dp), Stats.

PI 16.02 Definitions. In this chapter:

(1) “Age eligible” means a child who turns 4 years old on or before September 1 in the year that he or she proposes to enter school.

(2) “Community based provider” means head start and licensed group based child care and preschool centers.

(3) “Community interest groups” means individuals or representatives with interest and relevance to early learning, such as family child care, community home visiting programs, parent education, resource and referral agencies, family resource centers, health or mental health organizations, social service agencies, elected officials, business, or philanthropic organizations.

(4) “Contract or agreement” means a written document that defines the roles and responsibilities related to the program operation.

(5) “Department” means the Wisconsin department of public instruction.

(6) “4K” means 4-year-old kindergarten.

(7) “School board” has the meaning defined in s. 115.001 (7), Stats.

(8) “School district” has the meaning defined in s. 115.01 (3), Stats.

PI 16.03 Eligible applicants, application and program requirements.

(1) (a) Annually by March 31, 2008, for the 2008-2009 school year, and by the 4th Monday in March in subsequent years, school boards of eligible school districts may apply to the department for a 4K grant under this chapter. An eligible school district shall meet all of the following requirements:

1. May not have counted pupils in a 4K program for equalization aid and revenue limit purposes on the PI-1563 pupil count report collected pursuant to s. 121.05 (1), Stats., in the school year prior to the first year of the grant.
2. Shall have an existing contract or agreement with the community based provider if using a community approach or community based provider.
3. Shall complete the department's application in a timely and complete manner.

(b) Priority shall be given to school districts that use community approaches to early education. A community approach means the school district shall do both of the following:

1. Establish and maintain a collaborative committee, council, or advisory group. This group shall be involved in the initial planning, public awareness, delivery models, staff development, program design, site selection, staffing patterns, policy development, program standards and curriculum, as well as the on-going implementation and administration of the program. This group shall include representatives from community based providers; the school district, which may include administration, school board members, or principals; and a representative of other relevant community interest groups.

2. Establish and maintain written contracts or agreements that define the partnerships between the school district and community based provider. The school district shall have at least one site of the school district's 4K program at a non-school district site, not including a private home, or on a school district site administered by a community based provider. These sites shall be within the school district's boundaries or may be offered off-site through an interdistrict agreement under s. 66.0301, Stats. The contract or agreement shall define all of the following roles and responsibilities related to the 4K program operation:

- a. The school district process to oversee and supervise the program to assure compliance with state and federal education laws.
- b. The community provider process to assure compliance with the state or federal laws regulating their program.
- c. The program components and design to include hours, length of program, staffing design, staff development, curriculum, class size, and parent outreach activities.
- d. The resources provided by each entity necessary for the delivery of the program.
- e. The financial arrangements which assure the district covers the cost of program instruction.
- f. The recruitment and enrollment practices that assure the school district program is open to all age eligible children and that the community provider assures that enrollment is not contingent upon enrollment in any program offered by the community based provider, unless this conflicts with the provider's federal regulations.

(2) A school district operating a 4K program funded under sub. (1) shall meet all of the following:

- (a) Make the program open and accessible to all age eligible residents of the district at no charge.
- (b) Provide a minimum of 437 hours of instruction by a teacher who holds a license issued by the department to teach prekindergarten or kindergarten.
- (c) Provide transportation to and from the 4K program at no charge as required by s. 121.54 (1) and (2), Stats.

(d) Pay the full cost of the 4K program, including the costs associated with programs located off-site. Such costs include staff compensation, special education, and support services for children, facilities, supplies, and staff development.

(e) Meet the school district standards under s. 121.02 (2) (a), (b), (c), (e), (f), (g), (h), (i), (j), (k), (L), (o), (q), and (t), Stats.

NOTE: PI-7801 Four-Year-Old Kindergarten (4K) Start-Up Grant Application, may be obtained at no charge by writing to the Wisconsin Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841 or by going to the department's web site at <http://www.dpi.wi.gov/ec/ec4yrpag.html>.

PI 16.04 Review of applications and awarding of grants. (1) **FIRST YEAR GRANT AWARDS.** (a) The department shall give preference in awarding grants under this chapter to eligible school districts that demonstrate in the application that the 4K program is using a community approach to early education. The eligible applicant shall receive up to \$3,000 per pupil enrolled in the school district's 4K program as determined on the 3rd Friday in September pupil count under s. 121.05 (1), Stats. If the funds under s. 20.255 (2) (dp), Stats., are insufficient to pay \$3,000 per pupil, the funds shall be prorated.

(b) If, after awarding grants under sub. (1) (a), there are funds remaining, all other applicants who are in their first year of 4K program implementation and not using community approaches shall receive up to \$3,000 per pupil enrolled in the school district's 4K program as determined on the 3rd Friday in September pupil count under s. 121.05 (1), Stats. If the funds under 20.255 (2) (dp), Stats., are insufficient to pay \$3,000 pre pupil, the funds shall be prorated.

(2) **SECOND YEAR GRANT AWARDS.** (a) Grant recipients under sub. (1) may receive a second year grant if the recipient submits to the department by November 7 of the following school year an assurance on a form provided by the department, affirming that the program was and continues to meet the requirements under this chapter.

(b) Second year grant applicants that meet the requirements under this subdivision, may receive up to \$1,500 per pupil enrolled in the school district's 4K program as determined on the 3rd Friday in September pupil count under s. 121.05 (1), Stats.

(c) If the funds under s. 20.255 (2) (dp), Stats., are insufficient to pay \$1,500 per pupil, the funds shall be prorated.

(d) The department shall give preference in awarding and distributing funds to second year grant applicants as described under subd. (1).

NOTE: PI-7801-R, Four-Year-Old Kindergarten (4K) Grant Renewal, may be obtained at no charge by writing to the Wisconsin Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841 or by going to the department's web site at <http://www.dpi.wi.gov/ec/ec4yrpag.html>.

FINDING OF EMERGENCY

The Department of Public Instruction finds that an emergency exists and that the adoption of an emergency rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

The 4-year-old kindergarten grant program under s. 115.445, Stats., was created under 2007 Wisconsin Act 20. The Act became effective October 27, 2007, and appropriated \$3 million annually beginning in the 2008-09 school year. In order for school districts to develop application criteria and procedures in time for the program to operate in the upcoming school year, rules must be in place as soon as possible.

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

Dated this _____ day of February, 2008

Elizabeth Burmaster
State Superintendent