

Clearinghouse Rule 16-056

PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION REVISING PERMANENT RULES

The scope statement for this rule, SS 042-16, was published in Register No. 725B, on May 31, 2016, and approved by State Superintendent Tony Evers, on June 14, 2016. Pursuant to *Coyne v. Walker*, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope for this rule. *Coyne v. Walker*, 2016 WI 38.

The State Superintendent of Public Instruction hereby proposes an order to repeal ss. PI 30.02 (1) and (2) and subch. II, relating to changes to High Cost Special Education Aid.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 115.881, Stats.

Statutory authority: s. 227.10 (1), Stats.

Explanation of agency authority:

Under s. 227.10 (1), Stats., "Each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute." As such, PI 30 is required to administer criteria and procedures for awarding special education aid under s. 115.881, Stats.

Related statute or rule: N/A

Plain language analysis:

The proposed rule modifies PI 30 to reflect changes in the statutes as a result of 2015 Wisconsin Act 55 relating to the High Cost Special Education program and to update the rule to reflect changes in agency practice. This includes deleting Subchapter II of the rule, which has been deemed unnecessary for administration of the program and does not conform to current agency practice. This rule change will thus defer to the newly modified eligibility criteria for aid under s. 115.811 (2), Stats., thereby conforming DPI administrative code with changes to the statutes as a result of 2015 Wisconsin Act 55.

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

Comparison with rules in adjacent states: N/A

Summary of factual data and analytical methodologies:

PI 30 was promulgated on June 1, 2007 and was last modified January 1, 2009. 2015 Wisconsin Act 55 altered the eligibility definition for High Cost Special Education Aid under s. 115.881, Stats., from 90 percent of student costs above \$30,000 to 70 percent of student costs. PI 30 still includes the 90 percent amount. Additionally, the rule refers to a form that is no longer used. This rule change is needed to modify the existing rule so that the rule is reflective of current law and agency practice.

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)

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

Comments should be submitted to Carl Bryan, Department of Public Instruction, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707-7841 or at adminrules@dpi.wi.gov. The Department will publish a hearing notice in the *Administrative Register* which will provide information on the deadline for the submission of comments.

SECTION 1. SECTION PI 30.02 (1) and (2) are repealed.

SECTION 2. Subchapter II of PI 30 is repealed.

SECTION 3. 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 _____, 2017

Tony Evers, PhD
State Superintendent