

## Report From Agency

### FINAL REPORT CLEARINGHOUSE RULE 19-069

#### TECHNICAL CHANGES TO EXISTING DPI RULES AS A RESULT OF 2017 WISCONSIN ACT 108 REVIEW OF ADMINISTRATIVE RULES

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#### Analysis by the Department of Public Instruction

**Statutory authority:** ss. 43.09 (2), 115.28 (5), 115.42 (4), 115.76 (5) (b), 115.92 (3), 118.045 (3), 118.30 (2) (b) 2., 118.42 (4), 121.02 (5), 121.55 (1) (b), and 227.10 (1), Stats.

**Statute interpreted:** s. 227.29, Stats.

This proposed rule makes technical updates to existing Department rules, which include correcting obsolete, unnecessary, and duplicative rules and rules superseded by and in conflict with state statutes, resulting from the Department's review of administrative rules as required in 2017 Wisconsin Act 108. The changes include the following:

- 1. PI 1 (Complaint resolution and appeals):** A technical change is made to s. PI 1.01 (2) (d) to strike out references to s. 118.19 (5), Stats., and s. PI 34.35. The reference to s. 118.19 (5), Stats., is unnecessary, as the provision relates to individuals teaching in an alternative education program and does not affect the purpose or operation of the rule. Further, the reference to s. PI 34.35 is obsolete, since this provision no longer exists in rule (the reference to subch. XI of ch. PI 34 still applies).
- 2. PI 6 (Public libraries):** A technical change is made to s. PI 6.06 (4) (d) 3., to update auditing requirements and refer to "the applicable provisions of the U.S. Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200" in order to conform the rule with changes in generally accepted accounting principles and current agency practice.
- 3. PI 8 (School district standards):** The rule is superseded by changes in statute as a result of 2017 Wisconsin Act 94, which requires school districts to adopt academic standards for financial literacy and incorporating instruction in financial literacy into the curriculum in grades kindergarten to 12. Therefore, a technical change is made to conform ch. PI 8 to the changes in statute as a result of 2017 Act 94.
- 4. PI 11 (Children with disabilities):** Section PI 11.02 (4) defines "division" as division for learning support: equity and advocacy. A technical change is made to recognize the current name, which is the division for learning support. Additionally, a technical change is made to eliminate s. PI 11.37, relating to study and report to the standing committees of the legislature, since this section refers to past dates and a reporting requirement which had already been met as of 2005.

Further, s. PI 11.07 governs transfer pupils with a disability whose residence has changed from an LEA in Wisconsin to another LEA in this state or another state to an LEA in this state. Parts of s. PI 11.07 (2) (b) and all of PI 11.07 (2) (c) are duplicative of 34 CFR 300.323(e), and s. PI 11.07 (2) (d) requires that the sending LEA shall transfer the pupil's transfer records to the receiving LEA within 5 working days of the notice to transfer, which is in conflict with s. 118.125 (4), Stats., which requires the transfer to be within the next working day. Further, s. PI 11.07 (3) (b) is duplicative of 34 CFR 300.323(f), and s. PI 11.07 (3) (c) is inconsistent s. 115.78 (3)

(a), Stats., and 34 CFR 300.301(c)(1). As such, a technical change is made to eliminate these duplications and conform to statutes.

Finally, s. PI 11.35 governs the determination of eligibility of children with disabilities. Section PI 11.35 (1) is duplicative of s. 115.782, Stats., and 34 CFR 300.15. Further, s. PI 11.35 (2) is duplicative of s. 115.76 (5) (a), Stats., and 34 CFR 300.8(a)(1). Finally, s. PI 11.35 (3) (a) and (c) are duplicative of s. 115.782 (2) (b) 2., Stats., and 34 CFR 300.304. A technical change is made to eliminate these duplications in rule.

- 5. PI 13 (Limited-English proficient pupils):** A technical change is made to strike out the definition for “alternate assessment” in s. PI 13.03 (1) and all references to the assessment in ch. PI 13, since the definition refers to an alternate content assessment that does not exist for students who are not yet proficient in English. Additionally, s. PI 13.03 (3) points to a definition for bilingual counselor for individuals licensed under s. PI 3.50, which is an obsolete license. A technical change is made to eliminate this definition and s. PI 13.03 (4), relating to bilingual counselor aide, since the definition references bilingual counselors.

Additionally, the rule is in conflict with changes to the statutes as a result of 2011 Wisconsin Act 32 (the 2011-13 biennial budget). 2011 Act 32 amended s. 118.30 (2) (b) 2., Stats., to allow that, according to the criteria established by the state superintendent by rule, the governing body of a private school participating in the Wisconsin Parental Choice Program may determine not to administer an examination to a Limited-English speaking pupil, may permit the pupil to be examined in his or her native language, or may modify the format and administration of an examination for such pupils. Section PI 13.09 is therefore updated to conform the rule with changes to statutes under 2011 Act 32.

- 6. PI 19 (Education for school age parents):** The requirement established in s. PI 19.03 (3) to annually submit a program plan to the Department is unnecessary as the Department does not currently collect the plans, as such a plan is no longer required in statute. A technical change is made to eliminate this requirement. Additionally, the form corresponding to the report also no longer exists so references to it under s. PI 19.05 are also removed in this rule.
- 7. PI 27 (Commencement of school term):** A technical change is made to replace the reference to youth options under s. PI 27.03 (2) with the early college credit program, since 2017 Wisconsin Act 59 (the 2017-19 biennial budget) replaced the youth options program under s. 118.55, Stats., with the early college credit program.
- 8. PI 37 (Grants for national teacher certification or master educator licensure):** Provisions in the rule chapter relating to grants for national teacher certification and master educator licensure are superseded by changes in 2017 Wisconsin Act 59, which created lifetime licenses and eliminated continuing education requirements for the purpose of renewing a license. As a result, individuals who hold a master educator license are no longer subject to renewal requirements. References to license renewal in s. PI 37.03 (1) (a) are amended and references to continuing education requirements 37.04 are repealed to conform the rule to changes in statute.
- 9. PI 43 (Education reform):** Section PI 43.01 (1) relates to the rule's applicability and is duplicative of s. 118.42, Stats., as it simply restates statutory language. A technical change is made to eliminate this language.

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***A list of the persons who appeared or registered for or against the proposed rule at a public hearing:***

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.

***Summary of public comments relative to the rule, the agency's response to those comments, and changes made as a result of those comments:***

No public hearing was held and no comments were received.

***Changes to the plain language analysis or the fiscal estimate:***

No changes were made.

***Responses to Clearinghouse Report:***

**2. Form, Style and Placement in Administrative Code**

The changes are accepted.

**4. Adequacy of References to Related Statutes, Rules and Forms**

The changes are accepted.

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

The changes are accepted.