

Wisconsin Department of Public Instruction  
**STATEMENT OF SCOPE  
FOR ADMINISTRATIVE RULES**

**GENERAL INFORMATION**

Rule No.: PI 35, 48, and 49

Relating to: Changes to rules governing Parental Choice Programs and Special Needs Scholarship Program as a result of 2017 Wisconsin Acts 36 and 59 and other changes

Rule Type: Emergency and Permanent

**NARRATIVE**

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*, 368 Wis.2d 444.

1. Finding/nature of the emergency (Emergency Rule only).

2017 Wisconsin Acts 36 and 59 made several changes to the statutes governing the state's parental choice programs and the special needs scholarship program. The Department is required by statute to promulgate rules in order to administer each program. Unless these modifications are in place, the Department may be prevented from efficiently implementing and administering the programs and schools and applicants may not have clear guidance on program requirements. The promulgation of emergency rules will help ensure implementation of each program remains consistent through the completion of the permanent rule making process.

2. A description of the objective of the proposed rule.

The proposed rule will amend Chapters PI 35, 48, and 49 of the Wisconsin Administrative Code, in order to conform Department rules governing the parental choice programs and the special needs scholarship program to changes in statute as a result of 2017 Wisconsin Acts 36 and 59. The proposed rule will also make other various changes to conform the rule to best practices and efficiencies in program administration.

3. A description of the existing policies and new policies included in the proposed rule and an analysis of policy alternatives.

2015 Wisconsin Act 55, the 2015-17 biennial budget, significantly expanded the parental choice programs and created the special needs scholarship program. The Department promulgated administrative rules, CR 16-004, relating to the parental choice program for students residing in the city of Milwaukee; CR 16-005, relating to the special needs scholarship program; CR 16-006, relating to the parental choice program for eligible school districts and other school districts; and CR 16-066, relating to revisions to the special needs scholarship program; all of which are currently in effect. 2017 Wisconsin Act 36 and 2017 Wisconsin Act 59, the 2017-19 biennial budget, made several changes relating to the administration of all three programs. As a result of recent changes in statute and items identified since the programs were implemented, modifications to PI 35, PI 48, and PI 49 are needed to better assist participating schools and the Department in the administration of each program. Without a rule change, statute and rule will not be consistent and the Department may be prevented from efficiently administering the program.

4. The statutory authority for the proposed rule.

The Department is given statutory authority to promulgate rules under PI 35 with respect to the Milwaukee parental choice program:

119.23 Milwaukee parental choice program.

(11) The department shall do all of the following:

(a) Promulgate rules to implement and administer this section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

Further, the Department is given statutory authority to promulgate rules under PI 48 with respect to the statewide parental choice program:

118.60 Parental choice program for eligible school districts and other school districts.

(11) The department shall do all of the following:

(a) Promulgate rules to implement and administer this section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

Finally, under s. 115.7915 (10), Stats., the Department is given statutory authority to promulgate rules to implement and administer the Special Needs Scholarship program under PI 49, including rules relating to: (a) eligibility and participation of eligible schools; (b) calculation and distribution of scholarships; and (c) application and approval procedures for students and eligible schools.

5. An estimate of the amount of time agency employees will spend developing the proposed rule and of other resources needed to develop the rule.

The amount of time needed for rule development by Department staff and the amount of other resources necessary are indeterminate.

6. A description of all of the entities that will be affected by the proposed rule.

Private schools participating in the Milwaukee parental choice program, the Racine parental choice program, the statewide parental choice program, and the special needs scholarship program may be impacted by this rule.

7. A summary and preliminary comparison of any existing or proposed federal regulation that addresses or is intended to address the activities to be regulated by the proposed rule.

N/A

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses).

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

**Contact information**

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