



GENERAL INFORMATION

Rule No.

PI 1, 6, 8, 11, 13, 19, 27, 37, 43

Relating to

Technical changes to existing DPI rules as a result of 2017 Wisconsin Act 108 review of administrative rules

Rule Type

Permanent

SIGNATURE

State Superintendent Review

Approved. *Begin Drafting Rule*

Disapproved. *Reason for Disapproval*

State Superintendent Signature



Date Signed Mo./Day/Yr.

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*, 2016 WI 38, 368 Wis. 2d 444.

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

N/A

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

The objective of this rule is to make technical updates to existing DPI rules, which include correcting obsolete, unnecessary, and duplicative rules and rules superseded by and in conflict with state statutes, resulting from the Department's review of administrative rules as required in 2017 Wisconsin Act 108.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 needed 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 Further, the reference to s. PI 34.35 is obsolete, since this provision no longer exists in rule (the reference to subch.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 needed 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 **PI 8 (School district standards):** The rule is superseded by changes in statute as a result of 2017 Wisconsin Act 94, which requires school districts to adopt academic standards for financial literacy and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. A technical change is needed 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 needed to recognize the current name, which is the division for learning support. Additionally, a technical change is needed 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. Section PI 11.07 (2) (b) and (c) are duplicative of 34 CFR 300.323(e), and s. PI 11.07 (3) (b) is duplicative of 34 CFR 300.323(f). Further, 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

NARRATIVE (cont'd)

is in conflict with s. 118.125 (4), Stats., which requires the transfer to be within the next working day. Finally, s. PI 11.07 (3) (c) requires that the LEA shall complete an evaluation develop an IEP and the placements within 90 days of the date that the pupil enrolls in the LEA, which is inconsistent with the 60-day requirement under s. 115.78 (3) (a), Stats., and 34 CFR 300.301(c)(1). A technical change is needed 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 needed to eliminate these duplications in rule.

5. **PI 13 (Limited-English proficient pupils):** A rule change is needed 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 for students who are not yet proficient in English. Further, one such approved assessment does not exist. This part of rule is not consistent with current Department practice and is therefore unnecessary. 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 needed 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 relates to testing of these pupils and has not been updated to conform 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 and needs to be repealed. The Department does not currently collect the plans and the form mentioned in the note attached to s. PI 19.03 (3) does not exist, as such a plan is not required in statute. Further, if this requirement is eliminated, language referring to the plans under s. PI 19.05 should be repealed as it is rendered unnecessary.
7. **PI 27 (Commencement of school term):** A technical change is needed 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 and continuing education requirements in s. PI 37.03 (1) (a) and 37.04 should be 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. There is no impact to the rule as it restates statute. However, a technical change is needed to eliminate this language.

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

Under 2017 Wisconsin Act 108, each state agency that has promulgated rules in the Wisconsin Administrative Code is required to submit a biennial report to the Joint Committee for Review of Administrative Rules. The report must list the rules for which the following circumstances apply: 1) the rule is deemed unauthorized; 2) the authority to promulgate has been restricted; 3) the rule is deemed obsolete or has been rendered unnecessary; 4) the rule is duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a court ruling; and 5) the rule is deemed to be economically burdensome. Per 2017 Act 108, the report must also describe the agency's actions, if any, to address each of the rules listed and must include an explanation for any listed rule for which the agency has not taken any action. The proposed rules listed in this statement of scope are technical changes to rules with provisions that meet the criteria listed in the report (note: there were no rules that were deemed unauthorized, economically burdensome, or rules whose authority to promulgate had been restricted).

NARRATIVE (cont'd)

The proposed rule changes are technical in nature and do not contain any substantive changes in policy. The rule changes are designed to update DPI rules by deleting obsolete rule provisions, duplicative language, and dates that have passed, and conforming DPI rules with recent statutory changes and agency practice and terminology. Without these rule changes, the Department will continue to administer the rules as they currently exist, but may create confusion for persons impacted by each rule as many provisions in rule are currently obsolete or out of date.

4. The statutory authority for the proposed rule.

1. **PI 1 (Complaint resolution and appeals):** Pursuant to s. 115.28 (5), Stats., the state superintendent shall “examine and determine all appeals which by law are made to the state superintendent and prescribe rules of practice in respect thereto, not inconsistent with law.” In addition, 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, a rule is required in order to examine and determine all appeals made to the Department.
 2. **PI 6 (Public libraries):** Pursuant to s. 43.09 (2), Stats., the state superintendent shall, by rule, “may promulgate necessary standards for public library systems. If promulgated, such rules shall be consistent with s. 43.15 and shall be established in accordance with ch. 227.”
 3. **PI 7 (Pupil transportation):** Pursuant to s. 121.55 (1) (b), Stats., the state superintendent shall determine the amount of compensation to be designated in contracts with the parent or guardian of pupils transported to and from school. In addition, 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, a rule is required in order to determine the amount of compensation to be designated in parent contracts for the transportation of pupils to and from school.
 4. **PI 8 (School district standards):** Pursuant to s. 121.02 (5), Stats., the state superintendent shall promulgate rules to implement and administer the underlying statutes related to school district standards.
 5. **PI 11 (Children with disabilities):** Pursuant to s. 115.76 (5) (b), Stats., the definition of children with a disability may include a child who, by reason of his or her significant development delay, needs special education and related services, consistent with rules promulgated by the Department.
 6. **PI 13 (Limited-English proficient pupils):** Pursuant to s. 118.30 (2) (b) 2., Stats., according to criteria established by the state superintendent by rule, “the school board, operator of the charter school under s. 118.40 (2r), governing body of the private school participating in the program under s. 118.60, or governing body of the private school participating in the program under s. 119.23 may determine not to administer an examination under this section to a limited-English speaking pupil, as defined under s. 115.955 (7), 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.”
 7. **PI 19 (Education for school age parents):** Pursuant to s. 115.92 (3), Stats., the state superintendent shall establish criteria by rule for the approval of programs for school age parents for the purpose of determining programs eligible for aid under s. 115.93, Stats.
 8. **PI 27 (Commencement of school term):** Pursuant to s. 118.045 (3), Stats., the state superintendent shall promulgate rules governing procedures for school boards to request that a school term commence prior to September 1, and provide the extraordinary reasons that allow the Department to approve such requests.
 9. **PI 37 (Grants for national teacher certification or master educator licensure):** Pursuant to s. 115.42 (4), Stats., the department shall promulgate rules to implement and administer grants for national teacher certification or master educator licensure, including rules that relate to the application process and the selection process for grant recipients.
 10. **PI 43 (Education reform):** Pursuant to s. 118.42 (4), Stats., the state superintendent shall promulgate rules establishing criteria and procedures for determining whether a school or school district is in need of improvement and whether a school is among the lowest performing 5 percent of all public schools in the state for the purposes of the underlying statute.
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NARRATIVE (cont'd)

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 but is expected to be minimal.

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

No entities should be affected by this rule change since the change will only be done to align the DPI administrative code with current statutes, eliminate redundant language, and eliminate the use of dates that have passed and will no longer apply.

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.
