

STATEMENT OF SCOPE

Department of Safety and Professional Services

Rule No.: Chapters SPS 401, and SPS 404 to SPS 411

Relating to: Educational Approval Program

Rule Type: Permanent

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

N/A

2. Detailed description of the objective of the proposed rule:

2017 Wisconsin Act 59 eliminated the Educational Approval Board and transferred all of its duties to the Department of Safety and Professional Services. The Legislative Reference Bureau renumbered the relevant chapters and corrected the code references to effectuate this transfer. The Educational Approval chapters will be fully reviewed for consistency and clarity with statutory authority. Additionally, these chapters contain provisions that are obsolete, obtain incorrect cross-references, and are not compliant with drafting standards. For example, SPS 403 was repealed using the expedited rule repeal process under s. 227.26 (4), Stats., but there remain cross-references within SPS 404. The objective of the proposed rule project is to identify and correct these issues.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Transferring the duties of the Educational Approval Program to the Department of Safety and Professional Services requires a comprehensive review of the code to ensure consistency and clarity with statutory authority and department structure and available processes. For example, for SPS 404.07 relating to service of process, the appropriate staff position within the department needs to be clearly identified, and the rule needs to be clarified to indicate this position.

The policy alternative would be having potentially unnecessary confusion that may slow processes or even risk uncertainty for schools applying for approval or Wisconsin students attending those schools.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.05 (1) (b), Stats., authorizes the secretary of the department to, “promulgate rules for administering ... and performing the duties assigned to the department.”

Section 227.11 (2) (a), Stats., authorizes the department to “promulgate rules interpreting the provision of any statute enforced or administered by the agency.”

Section 440.52 (3), Stats., states that, “the department shall promulgate rules and establish standards necessary to administer this section.”

Section 440.52 (7), Stats., directs the department to promulgate rules and standards to do the following:

- “(a) Investigate the adequacy of courses and courses of instruction offered by schools to residents of this state and establish minimum standards for those courses of instruction.
- (b) Investigate the adequacy of schools' facilities, equipment, instructional materials, and instructional programs and establish minimum standards for those facilities, equipment, materials, and programs.
- (c) Establish rules, standards, and criteria to prevent fraud and misrepresentation in the sale and advertising of courses and courses of instruction.
- (d) Promulgate rules restricting the negotiability of promissory instruments received by schools in payment of tuition and other charges.
- (e) Establish minimum standards for refund of the unused portion of tuition, fees, and other charges if a student does not enter a course or course of instruction or withdraws or is discontinued from the course.
- (f) Require schools offering courses and courses of instruction to residents of this state to furnish information concerning their facilities, curricula, instructors, enrollment policies, tuition and other charges and fees, refund policies, and policies concerning negotiability of promissory instruments received in payment of tuition and other charges.
- (g) Approve courses of instruction, schools, changes of ownership or control of schools, and teaching locations meeting the requirements and standards established by the department and complying with rules promulgated by the department; publish a list of the schools and courses of instruction approved and a list of the schools that are authorized to use the term “college,” “university,” “state,” or “Wisconsin” in their names; and make those lists of the schools available on the department's Internet site.
- (h) Issue permits to solicitors when all department requirements have been met.
- (i) Require schools to furnish a surety bond in an amount as provided by rule of the department.”

Section 440.52 (8) (b), Stats., states that, “the department shall, by rule, specify the amount of the fee for a solicitor's permit” and that “the department shall, by rule, specify the amount of the fee for renewal of a solicitor's permit.”

Section 440.52 (10) (c), Stats., states that, “the department shall promulgate rules to establish the fees ...”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The Department estimates approximately 200 hours will be needed to research, draft rules, and process the rules through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

6. List with description of all entities that may be affected by the proposed rule :

Private trade, correspondence, business, or technical schools providing services in Wisconsin and the Wisconsin students that apply to or attend these schools

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

The U.S. Department of Education recognizes accreditation agencies that accredit colleges and schools that are eligible to receive federal student loans and grants. The U.S. Department of Education adopts administrative rules which requires that institutions are satisfying a set of conditions for borrower defense to prevent fraud and predatory practices, such as graduation rates.

Wisconsin is also a signatory to the State Authorization Reciprocity Agreement (SARA) which establishes a state-level reciprocity process that will allow institutions to enroll students in Wisconsin as long as that institution has complied with the state regulations in the state where that institution is based.

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 rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

Contact Person: Helen Leong, Administrative Rules Coordinator
Division of Policy Development, Department of Safety and Professional Services
(608) 266 – 0797 DSPSAdminRules@wisconsin.gov