

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

GENERAL INFORMATION

Rule No.: PI 11

Relating to: Speech and language impairment criteria

Rule Type: Permanent

NARRATIVE

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

N/A

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

The proposed rule seeks to update ch. PI 11 of the Wisconsin Administrative Code with respect to the identification of children with speech or language impairments.

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

Chapter PI 11 of the Wisconsin Administrative Code contains the current rules governing the education of children with disabilities, including rules around the identification of children with speech or language impairments. Under current rule, speech or language impairment is defined as “an impairment of speech or sound production, voice, fluency, or language that significantly affects educational performance or social, emotional or vocational development.” The current rules qualifying a child with a speech or language impairment include several items required as exclusionary criteria prior to identification that are inconsistent with national guidelines and may prevent the provision of services to students who demonstrate language delay. Additionally, current rule uses standardized measures for determining eligibility for services but does not use other information that accounts for functional communication across school environments, especially for students from diverse cultural backgrounds. As such, the department proposes to update criteria relating to identifying pupils that have a speech or language impairment in order to properly address student needs. Without a rule change, the department will continue to implement ch. PI 11 as written.

4. The statutory authority for the proposed rule.

Under s. 115.762 (3) (a), Stats., the division for learning support within the department is required to ensure that all children with disabilities, including children who are not yet 3 years of age, who reside in this state and who are in need of special education and related services are identified, located and evaluated. Section 115.76 (5) (a) 3., Stats., includes speech or language impairments as a category of disability in which a child may receive special education and related services. Under s. 227.11 (2) (a) (intro.), Stats., “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.” See also, *Wisconsin Ass'n of State Prosecutors v. Wisconsin Employment Relations Comm'n*, 2018 WI 17, ¶ 42 (“statutory mandates are also statutory authorizations, and authorization of an act also authorizes a necessary predicate act.”) (internal quotation marks omitted). As such, a rule is required to establish criteria for the identification and service of children with disabilities under ss. 115.76 (5) (a) 3. and 115.762 (3) (a), Stats.

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.

Local education agencies will be impacted by this rule change.

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.

“Speech or language impairment” is defined under the Individuals with Disabilities Education Act as a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance [34 CFR § 300.8(c)(11)].

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