

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 06-094
CHAPTER PI 40
YOUTH OPTIONS PROGRAM

Analysis by the Department of Public Instruction

Statute interpreted: s. 118.55, Stats.

Statutory authority: ss. 118.55 (9) and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 118.55 (9), Stats., requires the department to promulgate rules to implement and administer this program.

Court decisions directly relevant: None.

Related statute or rule: None.

Plain language analysis:

2003 Wisconsin Act 131 modified the youth options program under s. 118.55, Stats. Chapter PI 40 will be modified to conform to the changes made under the Act, including:

- Repealing the provision which required a school district to pay for ½ of comparable courses (up to six credits) for a pupil who attended a technical college for 10 or more credits in any semester.
- Repealing the prohibition against taking more than 15 credit hours per semester at an IHE and the prohibition against participating in the youth options program for more than two semesters once the pupil gains 12th grade status.
- Allowing a school district to establish a policy limiting its payment to the equivalent of 18 postsecondary semester credits for noncomparable courses taken for high school credit at an institution of higher education or technical college.
- Providing that if a pupil receives a failing grade or fails to complete a course for which the school board has made payment under the program, the pupil's parent or guardian (or the pupil if he or she is an adult) must reimburse the school board upon the school board's request. If a school board has requested reimbursement and has not been reimbursed, the pupil is ineligible to participate in the program.
- Providing that a technical college must admit an eligible pupil (unless the pupil is rejected because of disciplinary problems) if there is space available in the course after admission of individuals who are not attending the technical college under the program. This provision clarifies that pupils under the program do not take priority for admission over others applying to attend a technical college as a postsecondary student.

The rules will also make the following technical modifications:

- Clarifying that regardless of whether the pupil plans to attend an IHE or technical college, only one deadline applies (May 15 for the fall semester and November 15 for the spring semester) to school boards when notifying the pupil of its determinations of high school credit.
- Replacing the term "child with exceptional educational needs" with "child with a disability" to be consistent with terminology used under subchapter V of chapter 115, Stats.
- Clarifying provisions relating to payment for equipment under the program.
- Adding a web address to notes within the rules to allow easier accessibility to forms and other information referenced in the rules.

- Eliminating the requirement that the state superintendent's decisions be sent by certified mail.

Summary of, and comparison with, existing or proposed federal regulations:

None.

Comparison with rules in adjacent states:

According to the 2001 *Postsecondary Options: Dual/Concurrent Enrollment Report* compiled by the Education Commission of the States Center for Community College Policy, the following is a summary of similar programs offered in states adjacent to Wisconsin:

Illinois: Generally students are taught by college faculty, either at the college or high school or through distance education. The Board of Education encourages AP courses. The Illinois Community College Board has developed policies governing admission to postsecondary courses by high school students. The board also has developed funding policies for dual enrollment courses. Most college courses are offered by community colleges. The student or school district pays for courses. It is a local decision as to who pays the tuition costs for dually enrolled students.

Iowa: Generally students are taught by college faculty, either at the college or high school or through distance education. The program allows 11th and 12th grade students to enroll part time in nonsectarian college courses in eligible institutions. A gifted and talented student, according to the school's criteria, may also enroll in college courses. A student may enroll part-time in an eligible postsecondary institution for no more than four semester terms or six quarter terms unless identified as a gifted and talented 9th- or 10th-grade student. Students may enroll in any of the three state universities, the 15 public community colleges, and accredited private institutions as defined in Iowa's code and are eligible for the Iowa Tuition Grant Program. Students must meet entrance requirements for postsecondary courses as determined by the postsecondary institution before they can enroll. Students may not enroll in eligible postsecondary courses if the high school in which a student is enrolled offers a comparable course. The student or school district pays for the courses. If the student does not successfully complete the college courses, the student must pay.

Michigan: Generally students are taught by college faculty, either at the college or high school or through distance education. The program allows high school students to participate in dual enrollment or other postsecondary options. Qualified students for dual enrollment must take the MEAP High School Test and must be endorsed in the subject area in which they wish to dually enroll. If a subject has no endorsement, students are eligible to dually enroll in those areas as long as they have taken the MEAP High School Test. An eligible student must be enrolled in at least one high school class in at least grade 11 in a school district in Michigan, except a foreign exchange student enrolled under a cultural exchange program. The postsecondary enrollment options program establishes eligibility criteria for students, institutions and courses. It mandates eligible charges for tuition, course fees and registration fees that can be charged to a school district. It creates requirements for enrollment and credit. The program requires schools to provide postsecondary options counseling and mandates school districts to report to the Department of Education. The school district pays for the courses.

Minnesota: Generally students are taught by college faculty, either at the college or high school or through distance education. This is the oldest dual enrollment program in the United States. All high school juniors/seniors, except cultural exchange students, and some adults 21 years of age who do not have a high school diploma, are eligible to participate under the High School Graduation Incentives Act. Students may enroll in any public or private postsecondary institution. The student may only enroll in nonsectarian courses. The student or the state pays for the courses.

Summary of factual data and analytical methodologies:

The statutory language relating to the Youth Options program under s. 118.55, was modified thereby necessitating the amending of its corresponding administrative code, Chapter PI 40.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: N/A

Anticipated costs incurred by private sector: None.

Effect on small business:

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

Agency contact person: (including email and telephone)

Beth Lewis, Consultant, 608/267-1062, beth.lewis@dpi.state.wi.us

Place where comments are to be submitted and deadline for submission:

Written comments on the proposed rules submitted by September 12, 2006, to Lori Slauson at lori.slauson@dpi.state.wi.us or the Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, WI 53707, will be given the same consideration as testimony presented at the hearing.

Description of any forms:

PI 8700 A, Youth Options Program Plan and Report
PI 8701, Youth Options Program Transportation Reimbursement Claim

A public hearing to consider the proposed rule was conducted by the department on September 5, 2006. Persons were asked to register in favor, generally in favor (except for . . .), against, generally against (except for . . .), or for information only.

Madison Hearing, September 5, 2006

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Paul Gabriel	Wis. Technical College District Boards Association	X		
Sheri Krause	Wis. Association of School Boards	X		
Greg Wright	Kenosha Unified School District	X		

The following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Paul Brost	Self			X
Joe Heinzelman	Self	X		

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

Comment – The following comments cannot be addressed by rule as they are regulated by statute:

- Make participation in the youth options program be at a school board's discretion.
- Tuition costs should be capped [see ss. 118.55 (5) and (7r) (d), Stats.].
- Students should be reimbursed for class and textbooks after the course is completed [see ss. 118.55 (5) (intro.) and (7r) (d), Stats.].
- Treat the language regarding the purchase of equipment the same regardless if the pupil attends an IHE or a technical college [see ss. 118.55 (5) (a), (6) (a), and (7r) (d), Stats.].

Changes – None.

Comment – One commenter suggested there should be a statewide process for leasing or renting textbooks.

Discussion – If such a process were developed, it would not have to be addressed in the rule.

Changes – None.

Comment – One commenter suggested there should be a statewide recommendation for “junior status.”

Discussion – Whether or not a pupil has attained junior status is a local policy decision and does not need to be addressed in rule.

Changes – None.

Comment – One commenter suggested there should be definitions for “at-risk” and “good academic standing.”

Discussion – The term “children at risk” is defined under s. 118.153 (1) (a), Stats., and this definition is referenced in the youth options rule. The determination of good academic standing is a local policy decision and does not need to be addressed in rule.

Changes – None.

Comment – One commenter asked why the rule limits participation to one postsecondary institution.

Discussion – See the department's response to the Clearinghouse Report under 5. b. below.

Changes – None.

Comment – One commenter requested the rule provision under s. PI 40.07 (1) (b) be repealed.

Discussion – Section PI 40.07 establishes criteria for the determination and awarding of high school credit and meets the statutory directive given to the department under s. 118.55 (3) (b), Stats. Therefore, this provision will not be repealed.

Changes – None.

Comment – One commenter requested the rule provision under s. PI 40.07 (1m) be repealed.

Discussion – See discussion above.

Changes – None.

Comment – One commenter requested that the payment of equipment for a student attending a technical college be made by the school district rather than the student.

Discussion – Section 118.55 (5) (a), Stats., requires a school board to pay the actual cost of tuition, fees, books and *other necessary materials* (equipment) directly related to the course for a student attending an IHE. To be consistent with statutory language and in response to discussions with Legislative Council, sections PI 40.05 (2) (b) and (5) requiring the student to pay for his or her equipment while attending an IHE were repealed.

Section 118.55 (7r) (d), Stats., requires a school board to pay an amount equal to the cost of tuition, course fees, and books for a pupil attending a technical college but makes no reference to *other necessary materials*. Therefore, the provision requiring students to pay for technical college equipment will remain.

Changes – None.

Changes made as a result of oral or written testimony: None.

Changes to the analysis or the fiscal estimate: None.

Responses to Clearinghouse Report:

2. Form, Style and Placement in Administrative Code:

a. Recommendations accepted, changes made.

b. Section PI 40.055 (1) (b) is being amended, not repealed in its entirety. Therefore, the current treatment seems appropriate. Section PI 40.055 (1) (a) has been removed since it is not affected.

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

The cross-reference to s. PI 40.05 (5) in s. PI 40.055 (2) (b) has been deleted.

5. Clarity, Grammar, Punctuation and Plainness:

a. The treatment in the rule of technical colleges and institutions of higher education with regard to required and permissive payments are different. However, the rule is consistent with statutory language.

b. Section PI 40.056 (5) has been modified to clarify that only one postsecondary institution may be attended each semester. The department is interpreting ss. 118.55 (2) (a) and (7r) (a), Stats., which allows a pupil meeting certain requirements to enroll in *an* institution of higher education or to apply to attend *a* technical college.

c. The rule revisions were made to conform with statutory language changes made under 2003 Act 131 (effective in the 2004-05 school year) and to correct technical language that is currently applied by school districts. Therefore, no initial applicability section is necessary.

FINAL REGULATORY FLEXIBILITY ANALYSES

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.