

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

GENERAL INFORMATION

Rule No.: PI 42

Relating to: Accountability Systems under the Every Student Succeeds Act

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).

The Every Student Succeeds Act (ESSA) requires the Department to implement an accountability system in accordance with an approved state plan that will be used by the state to identify schools for comprehensive and targeted support and interventions. In order to provide schools and school districts sufficient time to develop improvement plans, an emergency rule is needed for the Department to begin the process of identifying schools in the 2018-19 school year. Without an emergency rule, the Department will be unable to conduct the work necessary for consistently identifying schools in time before a permanent rule can go into effect.

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

The proposed rule creates a new rule chapter, ch. PI 42 of the DPI Administrative Code, to implement ESSA accountability identifications as outlined in Wisconsin's Consolidated State Plan.

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

On January 16, 2018, the Department received federal approval of its Consolidated State Plan to implement the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act. That law, along with Wisconsin's required state plan, requires the Department to identify schools for Comprehensive or Targeted Support and Intervention (or identify schools as Not Identified) beginning in the 2018-19 school year. No policy alternatives other than a rule are available as the Department is required by statute to promulgate rules in setting criteria that enforce federal law.

Wisconsin's approved Consolidated State Plan may be viewed at the following link:

<https://dpi.wi.gov/sites/default/files/imce/esea/pdf/1%2012%2018%20WI%20Final%20ESSA%20Plan%20Submission.pdf>

4. The statutory authority for the proposed rule.

Pursuant to s. 115.28 (9), Stats., the State Superintendent has a duty to accept federal funds for any function over which the State Superintendent has jurisdiction and act as the agent for the receipt and disbursement of such funds. Under 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 citations omitted).

Federal funds appropriated for the State under the ESEA as amended by the ESSA are, in part, conditioned upon compliance with 20 USC 6311(b) and (d). These sections require the Department identify schools for Comprehensive or Targeted Support and Intervention in SY 2018-19 and beyond. As such, a rule to implement an ESSA-compliant accountability system is necessary for the receipt and disbursement of federal funds under the ESEA.

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 minimal.

6. A description of all of the entities that will be affected by the proposed rule.
The proposed rule would impact local education agencies.

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.
None.

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.

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