

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 17-052
CHAPTER PI 1
COMPLAINT RESOLUTION AND APPEALS

Analysis by the Department of Public Instruction

Statutory authority: ss. 115.28 (5), 227.10 (1), and 227.44 (8), Stats.

Statute interpreted: s. 115.28 (5), Stats.

The purpose of this rule would be to update the chapter, which has not been updated since 1987 with the exception of s. PI 1.01, to conform with statute. This rule covers all of the types of appeals and complaints that the Department is required by law to hear, unless another administrative rule or a statute provides more specific procedures (e.g.; ch. PI 11, children with disabilities). In addition, the rule addresses the procedures related to contested case hearings under s. 227.42, Stats., specify the requirements for a proper appeal, and specify who is responsible for paying for a transcript in a contested case hearing under s. 227.44 (8), Stats.

The hearing notice was published in the July 24, 2017 edition of the Wisconsin Administrative Register. A public hearing was held on September 5, 2017.

No persons provided oral testimony at the September 5 hearing on this rule and no persons submitted written testimony. Therefore, no changes were made as a result of testimony.

Changes to the analysis or the fiscal estimate:

- No changes were made.

Responses to Clearinghouse Report:

1. Statutory Authority:

- All changes were accepted.

2. Form, Style and Placement in Administrative Code:

- All changes, except where noted below, were accepted.
- Regarding item c. (1), the Department clarified the language in PI 1.04 (9) to state that the State Superintendent may conduct a desk review, which is defined under the newly created PI 1.02 (2m).
- Regarding item c. (3), the Department does not believe separating the actions taken in PI 1.03 (3) and 1.04 (9) are necessary, in order to eliminate confusion regarding the order of provisions in the rule.
- Finally, regarding item e., the Department does not believe adding a date of initial applicability is necessary, since revisions to the rule simply conform PI 1 to changes in statute and practice and do not substantially alter the way current complaints and appeals are being handled.

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

- All changes were accepted.

5. Clarity, Grammar, Punctuation and Plainness:

- All changes were accepted.

Changes deemed necessary by the Department to improve implementation of the rule:

- Eliminated the words “or deny” from PI 1.11 (4) (intro.) in order to correctly state that the Department shall grant a request for desk review or contested case hearing as long as the conditions, as stated below, apply.
- Eliminated the words “or, if no time period is specified, within 180 days of the action being contested” from PI 1.03 (3) (a) in order to prevent confusion over the applicable appeal deadlines.
- Added references to the summer food service program and 7 CFR § 225 in PI 1.02 (3m), 1.11 (1), 1.11 (2), and 1.11 (4) (c), and 1.11 (5) in order to include it with the with other federal nutrition programs.