

Clearinghouse Rule 18-027

ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION ADOPTING PERMANENT RULES

The Department of Public Instruction is petitioning the Joint Committee for Review of Administrative Rules to repeal a rule that the Department has determined to be an unauthorized rule using the process under s. 227.26 (4), Stats.

The State Superintendent of Public Instruction hereby issues an order to repeal PI 1.01 (2) (f), relating to youth options program appeals.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

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

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

Explanation of agency authority:

Pursuant to s. 115.28 (5), Stats., the state superintendent shall “examine and determine all appeals which by law are made to the state superintendent and prescribe rules of practice in respect thereto, not inconsistent with law.” In addition, under s. 227.10 (1), Stats., “Each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute.” As such, a rule is required in order to examine and determine all appeals made to the Department.

Related statute or rule: N/A

Plain language analysis:

Chapter PI 1 of the Wisconsin Administrative Code describes the Department’s process for hearing appeals which do not have specific procedures already prescribed by statute or regulation and applies to all complaints and appeals authorized by statute or rule that are filed with the Department. The rule provides certain exceptions to complaint and appeals procedures where other, more specific statutes or rules apply, including appeals under s. 1.01 (2) (f), relating to the granting of high school credit and number of high school credits to be awarded to a pupil participating in the youth options program under ch. PI 40.

2017 Wisconsin Act 59 eliminated the youth options program. As such, the reference to appeals relating to the youth options program under PI 1 is an unauthorized rule and should be repealed.

Agency contact person:

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SECTION 1. PI 1.01 (2) (f) is repealed.

SECTION 2. EFFECTIVE DATE:

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this ____ day of _____, 2018

Tony Evers, PhD
State Superintendent